

180, filed 6/19/84; Order 75-6, § 172-150-180, filed 6/16/75.]

**WAC 172-150-190 Corrective employment status.** Any organizational unit of the university which is found to have substantial under-representation of women and/or minorities within its work force may be placed on corrective employment status by the administrative officers responsible for that unit until such deficiency is overcome.

While under corrective employment status the organizational unit will be provided additional recruiting resources with which to attempt to overcome underutilization. No modification of bona fide occupational qualifications will be required under this section. [Statutory Authority: RCW 28B.35.120 and 43.21C.120. 84-13-053 (Order 84-01), § 172-150-190, filed 6/19/84; Order 75-6, § 172-150-190, filed 6/16/75.]

**Chapter 172-180 WAC  
DELEGATED AUTHORIZATION TO HIRE,  
DISMISS AND DISCIPLINE CLASSIFIED  
PERSONNEL**

**WAC**

172-180-010 Introduction and purpose.  
172-180-020 Delegation of appointing authority power.  
172-180-040 Effective date.

**WAC 172-180-010 Introduction and purpose.** In accordance with the requirements of WAC 251-12-010, through which the higher education personnel board of the state of Washington did authorize "appointing authorities" to demote, suspend, and reduce in salary or dismiss any employee under its jurisdiction for the causes stated in such rule, the board of trustees at Eastern Washington University hereby promulgates the following rules delegating the powers conferred upon it as an appointing authority. Such power is expressly derived from RCW 28B.39.120, [28B.35.120] which statute accords the board of trustees the power and duty to employ, discipline, and discharge university employees within the limitations provided by law, and RCW 28B.10.528, which statute expressly accords the board of trustees the power, when exercised by resolution, to delegate to any designee powers and duties vested in or imposed upon the board by law. [Statutory Authority: RCW 28B.35.120 and 43.21C.120. 86-01-042 (Order 85-01), § 172-180-010, filed 12/13/85. Statutory Authority: RCW 28B.40.120(11). 78-06-006 (Resolution 78-2), § 172-180-010, filed 5/5/78; Order 73-7, § 172-180-010, filed 3/20/73.]

**WAC 172-180-020 Delegation of appointing authority power.** In accordance with the statutory powers referred to in WAC 172-180-010 and in accordance with the rules promulgated by the higher education personnel board, the board of trustees of Eastern Washington University, in accordance with the resolution adopting this WAC chapter, hereby designates the

following positions, and persons occupying such positions, as appointing authorities at Eastern Washington University:

- (1) The president;
- (2) The vice president and provost for academic affairs;
- (3) The vice provost for academic affairs;
- (4) The vice president for business and finance;
- (5) The vice president for extended programs;
- (6) The vice president for student services;
- (7) The dean, college of letters and sciences;
- (8) The dean, school of fine arts;
- (9) The dean, school of human learning and development;
- (10) The dean, school of health sciences;
- (11) The dean, school of business;
- (12) The dean, school of social work and human services;
- (13) The dean, school of public affairs;
- (14) The dean, school of mathematical sciences and technology;
- (15) The university librarian; and
- (16) The executive assistant to the president (also the secretary of the board of trustees). [Statutory Authority: RCW 28B.35.120 and 43.21C.120. 86-01-042 (Order 85-01), § 172-180-020, filed 12/13/85. Statutory Authority: RCW 28B.35.120. 82-22-078 (Order 82-04), § 172-180-020, filed 11/3/82. Statutory Authority: RCW 28B.40.120(11). 78-06-006 (Resolution 78-2), § 172-180-020, filed 5/5/78; Order 73-7, § 172-180-020, filed 3/20/73.]

**WAC 172-180-040 Effective date.** Upon the date this rule becomes effective, in accordance with the Higher Education Personnel Act, this rule shall supersede the resolution adopted by the board of trustees of Eastern Washington University dated October 28, 1982. [Statutory Authority: RCW 28B.35.120 and 43.21C.120. 86-01-042 (Order 85-01), § 172-180-040, filed 12/13/85. Statutory Authority: RCW 28B.40.120(11). 78-06-006 (Resolution 78-2), § 172-180-040, filed 5/5/78; Order 73-7, § 172-180-040, filed 3/20/73.]

**Title 173 WAC  
ECOLOGY, DEPARTMENT OF**

**Chapters**

- |               |   |
|---------------|---|
| <b>173-06</b> | <b>Delegation of powers.</b>  |
| <b>173-14</b> | <b>Permits for developments on shorelines of the state.</b>                               |
| <b>173-16</b> | <b>Shoreline Management Act guidelines for development of master programs.</b>            |
| <b>173-18</b> | <b>Shoreline Management Act--Streams and rivers constituting shorelines of the state.</b> |
| <b>173-19</b> | <b>Shoreline Management Act of 1971--State master program.</b>                            |
| <b>173-20</b> | <b>Shoreline Management Act--Lakes constituting shorelines of the state.</b>              |

173-22	Adoption of designations of wetlands associated with shorelines of the state.
173-100	Ground water management areas and programs.
173-145	Administration of the flood control assistance account program.
173-150	Protection of withdrawal facilities associated with ground water rights.
173-154	Protection of upper aquifer zones.
173-216	State waste discharge permit program.
173-218	Underground injection control program.
173-220	National pollutant discharge elimination system permit program.
173-303	Dangerous waste regulations.
173-304	Minimum functional standards for solid waste handling.
173-305	Hazardous waste fee regulation.
173-330	Used automotive oil recycling sign requirements for automotive oil sellers.
173-400	General regulations for air pollution sources.
173-403	Implementation of regulations for air contaminant sources.
173-405	Kraft pulping mills.
173-410	Sulfite pulping mills.
173-415	Primary aluminum plants.
173-422	Motor vehicle emission inspection.
173-501	Instream resources protection program-- Nooksack water resource inventory area (WRIA) 1.
173-514	Instream resources protection program-- Kennedy-Goldsborough water resource inventory area (WRIA 14).
173-549	Water resources program in the Okanogan River basin, WRIA-49.
173-801	Department of ecology "SEPA" guidelines.
173-802	SEPA procedures.
173-805	Model ordinance for use in integration of SEPA guidelines.
173-806	Model ordinance.

### Chapter 173-06 WAC DELEGATION OF POWERS

WAC	
173-06-030	Delegation.
173-06-065	Repealed.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-06-065	NPDES delegation. [Statutory Authority: RCW 43.21A.090, 81-24-033 (Order DE 81-41), § 173-06-065, filed 11/25/81; 81-09-056 (Order DE 81-7), § 173-06-065, filed 4/17/81.] Repealed by 84-20-042 (Order DE 84-39), filed 9/27/84. Statutory Authority: RCW 43.21A.060, 43.21A.080 and 43.21A.090.
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**WAC 173-06-030 Delegation.** The authority delegated hereby includes the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The authority delegated is limited to the power to act for the department

in carrying out functions within the power of the department. No delegation made shall be effective or within the authority of any particular person to exercise unless that person has been issued a specific letter of authorization from the director authorizing him or her to act for the department in the specifics set forth in such letter. Subject to the foregoing restriction, the following delegations are made:

(1) To the deputy directors, assistant directors, regional managers, division supervisors and program managers[,] the authority to:

- (a) Issue orders relating to emergency episodes;
- (b) Issue regulatory notices and orders;
- (c) Impose civil penalties;
- (d) Perform departmental functions relating to grants, gifts, loans, bonds, fees and special funds;
- (e) Enter into contracts and appoint personnel;
- (f) Initiate requests for review before shorelines hearings board;
- (g) Issue determinations relating to tax credits or exemptions for pollution control facilities;
- (h) Perform departmental functions relating to adjudication of water rights[:];
- (i) Issue licenses, permits, variances, certificates, and certifications;
- (j) Approve, modify or deny proposals, and plans and specifications required to be submitted to the department.

[(2)] To the deputy directors, assistant directors, regional managers, division supervisors, program managers and section heads, the authority to approve, modify or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department, provided that a registered professional engineer employed by the department shall provide an evaluation and recommendations on such approvals, modifications or denials. [Statutory Authority: RCW 43.21A.090, 85-24-019 (Order 85-25), § 173-06-030, filed 11/26/85; Order DE 75-7, § 173-06-030, filed 5/16/75; Order DE 71-13, § 173-06-030, filed 9/8/71.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 173-06-065 Repealed.** See Disposition Table at beginning of this chapter.

### Chapter 173-14 WAC PERMITS FOR DEVELOPMENTS ON SHORELINES OF THE STATE

WAC	
173-14-040	Exemptions from substantial development permit requirement.
173-14-064	Revisions to substantial development, conditional use, and variance permits.
173-14-090	Filing with department and attorney general.
173-14-115	Letter of exemption.

173-14-130 Department review of conditional use and variance permits.

**WAC 173-14-040 Exemptions from substantial development permit requirement.** The following shall not require substantial development permits for the purposes of the act:

(1) Any development of which the total cost or fair market value, whichever is higher, does not exceed one thousand dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state.

(2) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.

(3) Construction of the normal protective bulkhead common to single-family residences.

(4) Emergency construction necessary to protect property from damage by the elements.

(5) Construction of a barn or similar agricultural structure on wetlands. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: *Provided*, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

(6) Construction or modification of navigational aids such as channel markers and anchor buoys.

(7) Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

(8) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, for which the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars.

(9) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.

(10) The marking of property lines or corners on state owned lands, when such marking does not significantly

interfere with normal public use of the surface of the water.

(11) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

(12) Any project with a certification from the governor pursuant to chapter 80.50 RCW. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-14-040, filed 4/15/85. Statutory Authority: RCW 90.58.200. 78-07-011 (Order DE 78-7), § 173-14-040, filed 6/14/78; Order DE 76-17, § 173-14-040, filed 7/27/76; Order DE 75-28, § 173-14-040, filed 12/4/75; Order DE 75-22, § 173-14-040, filed 10/16/75; Order 71-18, § 173-14-040, filed 12/16/71.]

**WAC 173-14-064 Revisions to substantial development, conditional use, and variance permits.** When an applicant seeks to revise a substantial development, conditional use, or variance permit, local government shall request from the applicant detailed plans and text describing the proposed changes in the permit.

(1) If local government determines that the proposed changes are within the scope and intent of the original permit, local government may approve a revision.

(2) "Within the scope and intent of the original permit" shall mean the following:

(a) No additional over water construction will be involved;

(b) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit: *Provided*, That revisions involving new structures not shown on the original site plan shall require a new permit, and: *Provided further*, That any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of the master program for the area in which the project is located.

(c) Landscaping may be added to a project without necessitating an application for a new permit: *Provided*, That the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the master program for the area in which the project is located;

(d) The use authorized pursuant to the original permit is not changed;

(e) No additional significant adverse environmental impact will be caused by the project revision.

(3) If the revision or the sum of the revision and any previously approved revisions pursuant to WAC 173-14-064 will violate the terms of one or more of the provisions in WAC 173-14-064(2) above, local government shall require that the applicant apply for a new substantial development, conditional use, or variance permit, as appropriate, in the manner provided for herein.

(4) The revised permit shall become effective immediately. Within eight days of the date of final local government action the revised site plan, text and the approved revision shall be submitted to the department

and the attorney general for the completion of their files. In addition, local government shall submit a notice of revision approval to persons who have notified local government of their desire to receive a copy of the action on a permit pursuant to WAC 173-14-070.

(5) Appeals shall be in accordance with RCW 90.58-.180 and shall be filed within fifteen days from the date of receipt of the local governments action by the department of ecology. Appeals shall be based only upon contentions of noncompliance with one or more of the provisions of WAC 173-14-064(2) above. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit shall be at the applicants own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision was not within the scope and intent of the original permit, the decision shall have no bearing on the original permit. [Statutory Authority: RCW 90.58.030, 90.58-.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-14-064, filed 4/15/85. Statutory Authority: RCW 90.58.200. 78-07-011 (Order DE 78-7), § 173-14-064, filed 6/14/78; Order DE 76-17, § 173-14-064, filed 7/27/76; Order DE 75-22, § 173-14-064, filed 10/16/75.]

**WAC 173-14-090 Filing with department and attorney general.** Any ruling by local government on an application for a substantial development, conditional use or variance permit, whether it be an approval or denial, shall be filed with the department and attorney general. When a substantial development permit and a conditional use or variance permit are required for a development, the filing of local government's rulings on the permits shall be made concurrently.

Copies of the original application, affidavit of public notice, site plan, vicinity map, permit, and final order shall be filed with the department and attorney general within eight days of the local government final decision. Where applicable, local government shall also file the following materials required by chapter 43.21C RCW, the State Environmental Policy Act; environmental checklist, threshold determination, and environmental impact statement, or in lieu thereof, a statement summarizing the actions and dates of such actions taken pursuant to chapter 43.21C RCW.

Filing shall not be complete until the required documents have actually been received by the department and by the attorney general. This same rule shall apply to conditional uses, variances, rescissions and revisions of permits.

"Date of filing" of a local government final order involving approval or denial of a substantial development permit, or involving a denial of a variance or conditional use permit, shall be the date of actual receipt by the department. With regard to a permit for a conditional use or variance approved by local government, and such permits which also involve concurrent filing by local government of a substantial development permit, the "date of filing" shall mean the date the department's final decision on the variance or conditional use permit is transmitted to local government and the applicant. The

department shall in all circumstances notify in writing the local government and the applicant of the "date of filing." [Statutory Authority: RCW 90.58.030, 90.58-.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-14-090, filed 4/15/85. Statutory Authority: RCW 90.58.200. 78-07-011 (Order DE 78-7), § 173-14-090, filed 6/14/78; Order DE 76-17, § 173-14-090, filed 7/27/76; Order DE 75-22, § 173-14-090, filed 10/16/75; Order 71-18, § 173-14-090, filed 12/16/71.]

**WAC 173-14-115 Letter of exemption.** Whenever a development falls within the exemptions stated in WAC 173-14-040 and the development is subject to a U.S. Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899, or a section 404 permit under the Federal Water Pollution Control Act of 1972, the local government shall prepare a letter addressed to the applicant and the department, exempting the development from the substantial development permit requirements of chapter 90.58 RCW. This exemption shall be in substantially the following form. Such forms will be supplied by local government.

EXEMPTION FROM SHORELINE  
MANAGEMENT ACT SUBSTANTIAL  
DEVELOPMENT PERMIT REQUIREMENT

To: -----  
(name and address of the applicant)

The proposal by (name of applicant) to undertake the the following development (please be specific)

-----  
upon the following property (please list legal description, i.e., section to the nearest quarter section)  
-----

-----  
within (name of water area) and/or its associated wetlands is exempt from the requirement of a substantial development permit because the development

-----  
(Identify exemptions as outlined in WAC 173-14-040)  
-----

(Corps Public Notice Number)

The proposed development is consistent or inconsistent with:

CHECK ONE

CONSISTENT      INCONSISTENT

Policies of the Shoreline Management Act.

The guidelines of the Department of Ecology where no master program has been finally approved or adopted by the department.

CHECK ONE

CONSISTENT

INCONSISTENT

The master program.

-----  
(Date)

-----  
(Signature of Authorized Local Governmental Official)

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-14-115, filed 4/15/85. Statutory Authority: RCW 90.58.200. 78-07-011 (Order DE 78-7), § 173-14-115, filed 6/14/78; Order DE 76-17, § 173-14-115, filed 7/27/76; Order DE 75-22, § 173-14-115, filed 10/16/75.]

**WAC 173-14-130 Department review of conditional use and variance permits.** After local government approval of a conditional use or variance permit, local government shall submit the permit to the department for the departments approval, approval with conditions (with concurrence of local government), or denial. The department shall render and transmit to local government and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by local government pursuant to WAC 173-14-090. Local government shall notify those interested persons having requested notification from local government pursuant to WAC 173-14-070 of the departments final decision. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-14-130, filed 4/15/85. Statutory Authority: RCW 90.58.200. 78-07-011 (Order DE 78-7), § 173-14-130, filed 6/14/78; Order DE 76-17, § 173-14-130, filed 7/27/76; Order DE 75-22, § 173-14-130, filed 10/16/75.]

**Chapter 173-16 WAC**

**SHORELINE MANAGEMENT ACT GUIDELINES FOR DEVELOPMENT OF MASTER PROGRAMS**

WAC

173-16-030

Definitions.

173-16-070

Variations and conditional uses.

**WAC 173-16-030 Definitions.** As used herein, the following words and phrases shall have the following meanings:

(1) "Act" means Shoreline Management Act of 1971, chapter 90.58 RCW.

(2) "Department" means state of Washington, department of ecology.

(3) "Development" means a use, consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or

temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any state of water level.

(4) "Director" means the director of the department of ecology.

(5) "Extreme low tide" means the lowest line on the land reached by a receding tide.

(6) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs.

(7) "Hearings board" means the shorelines hearings board established by the act.

(8) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to the Shoreline Act of 1971.

(9) "Master program" means the comprehensive use plan for a described area, and the use regulations, together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in section 2 of the act.

(10) "Ordinary high-water mark" means the mark on all lakes, streams, and tidal waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water.

(11) "Permit" means that required by the act for substantial development on shorelines, to be issued by the local government entity having administrative jurisdiction and subject to review by the department of ecology and the attorney general.

(12) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them, except:

(a) Shorelines of state-wide significance;

(b) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and

(c) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

(13) "Shorelines of state-wide significance" means the following shorelines of the state:

(a) The area between the ordinary high-water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(b) Those areas of Puget Sound and adjacent saltwaters and the Strait of Juan de Fuca between the ordinary high-water mark and the line of extreme low tide as follows:

(i) Nisqually Delta – from DeWolf Bight to Tatsolo Point;

(ii) Birch Bay – from Point Whitehorn to Birch Point;

(iii) Hood Canal – from Tala Point to Foulweather Bluff;

(iv) Skagit Bay and adjacent area – from Brown Point to Yokeko Point; and

(v) Padilla Bay – from March Point to William Point.

(c) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide;

(d) Those lakes, whether natural, artificial or a combination thereof, with a surface acreage of 1,000 acres, or more, measured at the ordinary high-water mark;

(e) Those natural rivers or segments thereof, as follows:

(i) Any west of the crest of the Cascade Range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more;

(ii) Any east of the crest of the Cascade Range downstream of a point where the annual flow is measured at 200 cubic feet per second, or more, or those portions of rivers east of the crest of the Cascade Range downstream from the first 300 square miles of drainage area, whichever is longer;

(f) Those wetlands associated with (a), (b), (d), and (e) of this subsection.

(14) "Shorelines of the state" means the total of all "shorelines" and "shorelines of state-wide significance" within the state.

(15) "State master program" means the cumulative total of all master programs approved or adopted by the department of ecology.

(16) "Substantial development" means any development of which the total cost, or fair market value, exceeds \$1,000, or any development which materially interferes with normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments:

(a) Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or elements;

(b) Construction of the normal protective bulkhead, common to single-family residences;

(c) Emergency construction necessary to protect property from damage by the elements;

(d) Construction of a barn or similar agricultural structure on wetlands;

(e) Construction or modification of navigational aids, such as channel markers and anchor buoys;

(f) Construction on wetlands by an owner, lessee, or contract purchaser, of a single-family residence, for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof.

(17) "Wetlands" or "wetland areas" means those lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high-water mark and all marshes, bogs, swamps, floodways, river deltas, and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of the act. [Statutory Authority: RCW 90.58-.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-16-030, filed 4/15/85; Order DE 72-12, § 173-16-030, filed 6/20/72 and 7/20/72.]

#### WAC 173-16-070 Variances and conditional uses.

The act states that each local master program shall contain provisions covering conditional uses and variances. Any permit for a variance or a conditional use granted by local government under an approved master program must be submitted to the department for approval, approval with conditions, or disapproval. The criteria contained in WAC 173-14-140 and 173-14-150 for shoreline conditional use and variance permits shall constitute the minimum criteria for review of these permits by local government and the department. More restrictive criteria may be applied where it exists in approved and adopted local master programs.

These provisions should be utilized in a manner which, while protecting the environment, will assure that a person will be able to utilize his property in a fair and equitable manner. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-16-070, filed 4/15/85; Order DE 72-12, § 173-16-070, filed 6/20/72 and 7/20/72.]

### Chapter 173-18 WAC

#### SHORELINE MANAGEMENT ACT—STREAMS AND RIVERS CONSTITUTING SHORELINES OF THE STATE

WAC

173-18-380 Thurston County.

#### WAC 173-18-380 Thurston County. Streams

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(1) Beaver Creek	<u>Tenino 15</u> Maytown 7 1/2 Rochester 15	From the confluence of Beaver Creek and unnamed creek (Sec.11,T16N,R2W) downstream to mouth at Black River (Sec.2,T16N,R3W).
(2) Black River	<u>Tenino 15</u> Maytown 7 1/2 Rochester 15	From the confluence of Dempsey Creek and the Black River (Sec.13,T17N,R3W) downstream to Grays Harbor County line (Sec.26,T16N,R4W).
(3) Black Lake Drainage Ditch	<u>Tumwater 7 1/2</u>	From outlet of Black Lake (Sec.32,T18N,R2W) downstream to confluence with Percival Creek (Sec.21,T18N,R2W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(4) Cedar Creek	<u>Rochester</u> 15	From the confluence of Cedar Cr. and Sherman Creek (Sec.2,T16N,R4W) downstream to Grays Harbor County line (same section).	(14) Percival Creek	<u>Tumwater</u> 7 1/2	From the confluence of Percival Creek and stream from Black Lake (Sec.21,T18N,R2W) downstream to mouth at Capitol Lake (Sec.22, same township).
(5) Chehalis River (cont.)*	<u>Rochester</u> 15	From Lewis County line (Sec. 23,T15N,R3W) downstream to Grays Harbor County line (Sec.11,T15N, R4W), excluding all federal lands. The flow exceeds 1,000 cfs MAF at Lewis County line.	(15) Scatter Creek	<u>Tenino</u> 15 <u>Bucoda</u> 7 1/2 <u>Tenino S.W.</u> 7 1/2 <u>Rochester</u> 15	From confluence of Scatter Creek and unnamed creek (Sec.20, T16N,R1W) downstream to mouth at Chehalis River (Sec.7,T15N,R3W).
(6) Deschutes River (cont.)	<u>Ohop Valley</u> 15 <u>Bald Hill</u> 7 1/2 <u>Lake Lawrence</u> 7 1/2 <u>Vail</u> 7 1/2 <u>Weir Prairie</u> 7 1/2 <u>East Olympia</u> 7 1/2 <u>Tumwater</u> 7 1/2 <u>Maytown</u> 7 1/2	From Lewis County line (Sec.24,T15N,R3E) downstream to mouth at Capitol Lake (Sec.26, T18N,R2W), excluding all federal lands.	(16) Sherman Creek	<u>Rochester</u> 15	From the confluence of Sherman Creek and Monro Creek (Sec.25,T17N,R4W) downstream to mouth on Cedar Cr. (Sec.2,T16N, R4W).
(7) Kennedy Creek	<u>Shelton</u> 15	From the confluence of Kennedy Creek and unnamed creek (Sec.14,T18N,R4W) downstream to the Mason County line (Sec.6,T18N, R3W).	(17) Skookumchuck River (cont.)	<u>Yelm</u> 15 <u>Tenino</u> 15	From the Lewis County line (Sec.20,T15N,R2E) downstream back to the Lewis County line (Sec. 21,T15N,R2W).
(8) Little Nisqually River (cont.)	<u>Ohop Valley</u> 15 <u>Eatonville</u> 7 1/2	From the Lewis-Thurston County line (Sec.21,T15N,R4E) downstream to Alder Lake (Sec.16, same township).	(18) Thompson Creek	<u>Yelm</u> 15 <u>Weir Prairie</u> 7 1/2	From the intersection of Highway SR 510 and Thompson Creek (Sec.11, T17N,R1E) downstream to mouth at Nisqually River (same section).
(9) McAllister Creek	<u>Anderson Island</u> 15 <u>Nisqually</u> 7 1/2	From the McAllister Springs (Sec.19,T18N,R1E) downstream to mouth at Nisqually Head (Sec.31, T19N,R1E).	(19) Waddell Creek	<u>Rochester</u> 15	From an approximate point (SE1/4 of NW1/4 of Sec.8,T17N,R3W) downstream to mouth at Black River (Sec.2, T16N,R3W).
(10) McLane Creek	<u>Tumwater</u> 7 1/2	From an approximate point (SW1/4 of NE1/4 of Sec.25, T18N,R3W) downstream to mouth at Eld Inlet (Sec. 19,T18N,R2W).	(20) Woodland Creek	<u>Lacey</u> 7 1/2	From an approximate point (NE1/4 of NE1/4 of SE1/4 of Sec.9,T18N,R1W) downstream to mouth at Henderson Inlet near South Bay (Sec. 32,T19N,R1W).
(11) Mima Creek	<u>Rochester</u> 15	From an approximate point (NE1/4 of NW1/4 of Sec.16, T16N,R3W) downstream to mouth at Black River (Sec.20, same township).	(21) Yelm Creek	<u>Yelm</u> 15 <u>McKenna</u> 7 1/2 <u>Weir Prairie</u> 7 1/2	From the confluence of Yelm Creek and Yelm ditch (Sec.29,T17N,R2E) downstream to mouth at Nisqually River (Sec.12, T17N,R1E).
(12) Mitchell Creek	<u>Ohop Valley</u> 15 <u>Bald Hill</u> 7 1/2	From the confluence of Mitchell Creek and unnamed creek (Sec.18,T15N, R3E) downstream to mouth at Deschutes River (Sec.7, same township).			
(13) Nisqually River (cont.)*	<u>Kapowsin</u> 15 <u>Ohop Valley</u> 15 <u>Yelm</u> 7 1/2 <u>Anderson Island</u> 15	From the Pierce County line in Alder Reservoir (Sec.20,T15N,R5E) downstream along left shore only, (exclude area from LaGrande Dam downstream to powerhouse due to use of aqueduct; also exclude all federal lands) to the Nisqually Indian Reservation boundary (Sec.11,T17N,R1E). The flow exceeds 1,000 cfs MAF at Pierce County line in Alder Reservoir.			

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-18-380, filed 4/15/85; Order DE 76-14, § 173-18-380, filed 5/3/76; Order 73-14, § 173-18-380, filed 8/27/73; Order DE 72-13, § 173-18-380, filed 6/30/72.]

**Chapter 173-19 WAC**  
**SHORELINE MANAGEMENT ACT OF 1971--**  
**STATE MASTER PROGRAM**

WAC

173-19-1104	Richland, city of.
173-19-130	Clallam County.
173-19-2204	Hoquiam, city of.
173-19-230	Island County.
173-19-240	Jefferson County.
173-19-250	King County.
173-19-2501	Auburn, city of.
173-19-2505	Bothell, city of.
173-19-2511	Kent, city of.
173-19-2515	Mercer Island, city of.

173-19-2520 Renton, city of.  
 173-19-2521 Seattle, city of.  
 173-19-260 Kitsap County.  
 173-19-280 Klickitat County.  
 173-19-2901 Centralia, city of.  
 173-19-310 Mason County.  
 173-19-3210 Winthrop, town of.  
 173-19-330 Pacific County.  
 173-19-3514 Tacoma, city of.  
 173-19-360 San Juan County.  
 173-19-370 Skagit County.  
 173-19-3701 Anacortes, city of.  
 173-19-390 Snohomish County.  
 173-19-3903 Edmonds, city of.  
 173-19-3908 Lake Stevens, city of.  
 173-19-400 Spokane County.  
 173-19-420 Thurston County.  
 173-19-4201 Bucoda, town of.  
 173-19-4202 Lacey, city of.  
 173-19-4203 Olympia, city of.  
 173-19-4204 Tenino, town of.  
 173-19-4205 Tumwater, city of.  
 173-19-4206 Yelm, town of.  
 173-19-4402 Walla Walla, city of.  
 173-19-450 Whatcom County.  
 173-19-4501 Bellingham, city of.  
 173-19-4502 Blaine, city of.  
 173-19-4506 Nooksack, city of.  
 173-19-4704 Selah, city of.

**WAC 173-19-1104 Richland, city of.** City of Richland master program approved September 9, 1974. Revision approved August 29, 1979. Revision approved June 23, 1983. Revision approved January 4, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-02-073 (Order DE 83-37), § 173-19-1104, filed 1/4/84; 83-14-003 (Order DE 83-17), § 173-19-1104, filed 6/23/83. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-1104, filed 1/30/80.]

**WAC 173-19-130 Clallam County.** Clallam County master program approved August 5, 1976. Revision approved November 16, 1976. Revision approved August 10, 1979. Revision approved January 4, 1983. Revision approved March 27, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-08-030 (Order DE 83-41), § 173-19-130, filed 3/29/84; 83-02-066 (Order DE 82-48), § 173-19-130, filed 1/5/83. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-130, filed 1/30/80; 79-11-053 (Order DE 79-28), § 173-19-130, filed 10/16/79; 79-09-131 (Order DE 79-16), § 173-19-130, filed 9/5/79; 79-09-001 (Order DE 79-6), § 173-19-130, filed 8/2/79; Order DE 77-16, § 173-19-130, filed 9/9/77; Order DE 74-23, § 173-19-130, filed 12/30/74.]

**WAC 173-19-2204 Hoquiam, city of.** City of Hoquiam master program approved April 14, 1976. Revisions approved July 29, 1980. Revision approved April 23, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-10-030 (Order 85-06), § 173-19-2204, filed 4/24/85; 80-10-017 (Order DE 80-30), § 173-19-2204, filed 7/31/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2204, filed 1/30/80.]

**WAC 173-19-230 Island County.** Island County master program approved June 25, 1976. Revision approved June 4, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-12-051 (Order 85-12), § 173-19-230, filed 6/5/85. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-230, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-230, filed 8/2/79; Order DE 77-16, § 173-19-230, filed 9/9/77; Order DE 74-23, § 173-19-230, filed 12/30/74.]

**WAC 173-19-240 Jefferson County.** Jefferson County master program approved December 20, 1974. Revision approved August 12, 1982. Revision approved July 6, 1983. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-19-240, filed 4/15/85. Statutory Authority: RCW 90.58.120 and 90.58.200. 83-14-086 (Order DE 83-20), § 173-19-240, filed 7/6/83; 82-17-047 (Order DE 82-30), § 173-19-240, filed 8/16/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-240, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-240, filed 8/2/79; Order DE 75-21, § 173-19-240, filed 8/12/75; Order DE 74-23, § 173-19-240, filed 12/30/74.]

**WAC 173-19-250 King County.** King County master program approved July 8, 1976. Revision approved November 22, 1976. Revision approved June 30, 1978. Revision approved July 5, 1979. Revision approved September 23, 1981. Revision approved February 9, 1982. Revision approved March 14, 1984. Revision approved June 18, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-13-054 (Order 85-17), § 173-19-250, filed 6/18/85; 84-07-025 (Order DE 84-6), § 173-19-250, filed 3/15/84; 82-05-018 (Order DE 81-54), § 173-19-250, filed 2/9/82; 81-20-006 (Order DE 81-24), § 173-19-250, filed 9/24/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-250, filed 1/30/80; 79-09-131 (Order DE 79-16), § 173-19-250, filed 9/5/79; 79-09-001 (Order DE 79-6), § 173-19-250, filed 8/2/79; Order DE 77-28, § 173-19-250, filed 10/24/77; Order DE 77-16, § 173-19-250, filed 9/9/77; Order DE 76-15, § 173-19-250, filed 5/3/76; Order DE 75-21, § 173-19-250, filed 8/12/75; Order DE 74-23, § 173-19-250, filed 12/30/74.]

**WAC 173-19-2501 Auburn, city of.** City of Auburn master program approved April [4] [14], 1974. Revision approved June 18, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-13-054 (Order 85-17), § 173-19-2501, filed 6/18/85. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2501, filed 1/30/80.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.



**WAC 173-19-2505 Bothell, city of.** City of Bothell master program approved February 27, 1975. Revision approved July 2, 1976. Revision approved January 31, 1977. Revision approved March 8, 1983. Revision approved December 5, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-24-075 (Order DE 84-40), § 173-19-2505, filed 12/5/84; 83-07-019 (Order DE 83-9), § 173-19-2505, filed 3/11/83. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2505, filed 1/30/80.]

**WAC 173-19-2511 Kent, city of.** City of Kent master program approved April 9, 1974. Revision approved December 8, 1978. Revision approved April 10, 1979. Revision approved December 10, 1980. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-19-2511, filed 4/15/85. Statutory Authority: RCW 90.58.120 and 90.58.200. 81-01-039 (Order DE 80-48), § 173-19-2511, filed 12/11/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2511, filed 1/30/80.]

**WAC 173-19-2515 Mercer Island, city of.** City of Mercer Island master program approved September 24, 1974. Revision approved May 14, 1981. Revision approved June 18, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-13-054 (Order DE 85-17), § 173-19-2515, filed 6/18/85; 81-11-028 (Order DE 81-11), § 173-19-2515, filed 5/15/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2515, filed 1/30/80.]

**WAC 173-19-2520 Renton, city of.** City of Renton master program approved January 23, 1976. Revision approved February 23, 1977. Revision approved September 12, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-039 (Order DE 84-28), § 173-19-2520, filed 9/14/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2520, filed 1/30/80.]

**WAC 173-19-2521 Seattle, city of.** City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-20-094 (Order DE 85-21), § 173-19-2521, filed 10/1/85; 83-21-094 (Order DE 83-27), § 173-19-2521, filed 10/19/83; 83-15-014 (Order DE 83-19), § 173-19-2521, filed 7/12/83; 83-13-029 (Order DE 83-4), § 173-19-2521, filed 6/7/83; 83-07-081 (Order DE 83-4), § 173-19-2521, filed 3/23/83; 82-02-079 (Order DE 81-44), § 173-19-2521, filed 1/6/82; 81-

20-043 (Order DE 81-28), § 173-19-2521, filed 10/1/81; 81-11-029 (Order DE 81-12), § 173-19-2521, filed 5/15/81; 81-06-051 (Order DE 81-2), § 173-19-2521, filed 2/27/81; 80-13-031 (Order DE 80-34), § 173-19-2521, filed 9/10/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2521, filed 1/30/80.]

**WAC 173-19-260 Kitsap County.** Kitsap County master program approved April 30, 1976. Revision approved October 24, 1977. Revision approved December 22, 1981. Revision approved March 16, 1983. Revision approved March 22, 1984. Revision approved April 18, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-10-014 (Order DE 85-03.5), § 173-19-260, filed 4/19/85; 84-08-042 (Order DE 84-5), § 173-19-260, filed 4/2/84; 83-08-002 (Order DE 83-11), § 173-19-260, filed 3/24/83; 82-01-087 (Order DE 81-35), § 173-19-260, filed 12/22/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-260, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-260, filed 8/2/79; Order DE 77-16, § 173-19-260, filed 9/9/77; Order DE 76-15, § 173-19-260, filed 5/3/76; Order DE 74-23, § 173-19-260, filed 12/30/74.]

**WAC 173-19-280 Klickitat County.** Klickitat County master program approved August 29, 1975. Revision approved September 6, 1979. Revision approved March 1, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-06-043 (Order DE 83-40), § 173-19-280, filed 3/2/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-280, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-280, filed 8/2/79; Order DE 76-15, § 173-19-280, filed 5/3/76; Order DE 74-23, § 173-19-280, filed 12/30/74.]

**WAC 173-19-2901 Centralia, city of.** City of Centralia master program approved March 29, 1978. Revision approved August 12, 1982. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-19-2901, filed 4/15/85. Statutory Authority: RCW 90.58.120 and 90.58.200. 82-17-048 (Order DE 82-31), § 173-19-2901, filed 8/16/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-2901, filed 1/30/80.]

**WAC 173-19-310 Mason County.** Mason County master program approved August 6, 1975. Revision approved December 18, 1975. Revision approved February 22, 1980. Revision approved June 23, 1982. Revision approved October 16, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-22-055 (Order DE 84-29), § 173-19-310, filed 11/7/84; 82-14-017 (Order DE 82-18), § 173-19-310, filed 6/28/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-05-053 (Order DE 80-12), § 173-19-310, filed 4/16/80; 80-02-123 (Order DE 79-34), § 173-19-310,

filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-310, filed 8/2/79; Order DE 76-15, § 173-19-310, filed 5/3/76; Order DE 75-21, § 173-19-310, filed 8/12/75; Order DE 74-23, § 173-19-310, filed 12/30/74.]

**WAC 173-19-3210 Winthrop, town of.** Town of Winthrop master program approved December 16, 1975. Revision approved March 9, 1976. Revision approved February 2, 1979. Revision approved November 23, 1981. Revision approved January 31, 1985. Revision approved March 28, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-08-016 (Order 85-08), § 173-19-3210, filed 3/28/85. Statutory Authority: RCW 90.58.120, 90.58.200 and chapter 90.58 RCW. 85-04-039 (Order 84-46), § 173-19-3210, filed 2/1/85. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 81-24-074 (Order DE 81-36), § 173-19-3210, filed 12/2/81; 80-02-123 (Order DE 79-34), § 173-19-3210, filed 1/30/80.]

**WAC 173-19-330 Pacific County.** Pacific County master program approved April 8, 1975. Revision approved June 26, 1980. Revision approved March 16, 1982. Revision approved September 26, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-20-041 (Order 84-32), § 173-19-330, filed 9/27/84; 82-07-045 (Order DE 81-55), § 173-19-330, filed 3/18/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-08-054 (Order DE 80-25), § 173-19-330, filed 6/30/80; 80-02-123 (Order DE 79-34), § 173-19-330, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-330, filed 8/2/79; Order DE 75-21, § 173-19-330, filed 8/12/75; Order DE 74-23, § 173-19-330, filed 12/30/74.]

**WAC 173-19-3514 Tacoma, city of.** City of Tacoma master program approved April 5, 1977. Revision approved December 5, 1979. Revision approved March 17, 1981. Revision approved November 23, 1981. [Revision approved April 6, 1982.] Revision approved May 24, 1983. Revision approved March 1, 1984. Revision approved May 9, 1984. Revision approved April 18, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-10-013 (Order 85-03), § 173-19-3514, filed 4/19/85; 84-11-015 (Order DE 84-16), § 173-19-3514, filed 5/9/84; 84-06-043 (Order DE 83-40), § 173-19-3514, filed 3/2/84; 83-12-018 (Order DE 83-16), § 173-19-3514, filed 5/24/83; 82-10-002 (Order DE 82-06), § 173-19-3514, filed 4/23/82; 81-24-072 (Order DE 81-37), § 173-19-3514, filed 12/2/81; 81-08-005 (Order DE 81-4), § 173-19-3514, filed 3/19/81; 80-04-026 (Order DE 80-10), § 173-19-3514, filed 3/18/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-3514, filed 1/30/80.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 173-19-360 San Juan County.** San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-22-016 (Order DE 84-36), § 173-19-360, filed 10/31/84; 81-09-057 (Order DE 81-8), § 173-19-360, filed 4/17/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-360, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-360, filed 8/2/79; Order DE 77-16, § 173-19-360, filed 9/9/77; Order DE 74-23, § 173-19-360, filed 12/30/74.]

**WAC 173-19-370 Skagit County.** Skagit County master program approved October 5, 1976. Revision approved January 5, 1979. Revision approved May 11, 1979. Revision approved March 3, 1980. Revision approved September 10, 1980. Revision approved December 10, 1980. Revision approved September 23, 1981. Revision approved November 23, 1981. Revision approved August 19, 1982. Revision approved February 24, 1983. Revision approved March 22, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-08-003 (Order DE 84-10), § 173-19-370, filed 3/22/84; 83-07-082 (Order DE 83-5), § 173-19-370, filed 3/23/83; 82-18-027 (Order DE 82-33), § 173-19-370, filed 8/25/82; 81-24-075 (Order DE 81-38), § 173-19-370, filed 12/2/81; 81-20-004 (Order DE 81-25), § 173-19-370, filed 9/24/81; 81-01-040 (Order DE 80-51), § 173-19-370, filed 12/11/80; 80-13-030 (Order DE 80-35), § 173-19-370, filed 9/10/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-05-053 (Order DE 80-12), § 173-19-370, filed 4/16/80; 80-02-123 (Order DE 79-34), § 173-19-370, filed 1/30/80; 79-09-131 (Order DE 79-16), § 173-19-370, filed 9/5/79; 79-09-001 (Order DE 79-6), § 173-19-370, filed 8/2/79; Order DE 77-16, § 173-19-370, filed 9/9/77; Order DE 74-23, § 173-19-370, filed 12/30/74.]

**WAC 173-19-3701 Anacortes, city of.** City of Anacortes master program approved April 9, 1976. Revision approved November 25, 1980. Revision approved July 1, 1981. Revision approved December 23, 1982. Revision approved November 15, 1983. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-19-3701, filed 4/15/85. Statutory Authority: RCW 90.58.120 and 90.58.200. 83-23-062 (Order DE 83-28), § 173-19-3701, filed 11/16/83. Statutory Authority: RCW 90.58.120 and 90.58.200. 83-02-004 (Order DE 82-43), § 173-19-3701, filed 12/23/82; 81-15-006 (Order DE 81-15), § 173-19-3701, filed 7/2/81; 80-18-024 (Order DE 80-41), § 173-19-3701, filed 11/26/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-3701, filed 1/30/80.]

**WAC 173-19-390 Snohomish County.** Snohomish County master program approved December 27, 1974.

Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-02-074 (Order DE 83-43), § 173-19-390, filed 1/4/84; 83-18-005 (Order DE 83-23), § 173-19-390, filed 8/26/83; 82-14-018 (Order DE 82-19), § 173-19-390, filed 6/28/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-390, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-390, filed 8/2/79. Statutory Authority: RCW 90.58.020. 78-08-076 (Order DE 78-9), § 173-19-390, filed 7/26/78; Order DE 77-16, § 173-19-390, filed 9/9/77; Order DE 76-15, § 173-19-390, filed 5/3/76; Order DE 75-21, § 173-19-390, filed 8/12/75; Order DE 74-23, § 173-19-390, filed 12/30/74.]

**WAC 173-19-3903 Edmonds, city of.** City of Edmonds master program approved January 23, 1976. Revision approved March 5, 1979. Revision approved May 6, 1980. Revision approved April 30, 1984. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-19-3903, filed 4/15/85. Statutory Authority: RCW 90.58.120 and 90.58.200. 84-10-050 (Order DE 84-14), § 173-19-3903, filed 5/2/84; 80-06-050 (Order DE 80-13), § 173-19-3903, filed 5/14/80. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-3903, filed 1/30/80.]

**WAC 173-19-3908 Lake Stevens, city of.** City of Lake Stevens master program approved December 27, 1974. Revision approved January 4, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-02-075 (Order DE 83-44), § 173-19-3908, filed 1/4/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-3908, filed 1/30/80.]

**WAC 173-19-400 Spokane County.** Spokane County master program approved January 15, 1975. Revision approved September 6, 1977. Revision approved August 15, 1979. Revision approved February 24, 1981. Revision approved December 15, 1982. Revision approved March 14, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-07-025 (Order DE 84-6), § 173-19-400, filed 3/15/84; 83-02-005 (Order DE 82-44), § 173-19-400, filed 12/23/82; 81-06-052 (Order DE 81-3), § 173-19-400, filed 2/27/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-400, filed 1/30/80; 79-11-053 (Order DE 79-28), § 173-19-400, filed 10/16/79; 79-09-001 (Order DE 79-6), § 173-19-400, filed 8/2/79; Order DE 77-16, § 173-19-400, filed 9/9/77; Order DE 75-21, § 173-19-400, filed 8/12/75; Order DE 74-23, § 173-19-400, filed 12/30/74.]

**WAC 173-19-420 Thurston County.** Thurston County master program approved May 21, 1976. Revision approved August 27, 1976. Revision approved August 7, 1979. Revision approved September 23, 1981. Revision approved March 4, 1982. Revision approved August 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-420, filed 9/14/84; 82-07-004 (Order DE 82-3), § 173-19-420, filed 3/4/82; 81-20-005 (Order DE 81-26), § 173-19-420, filed 9/24/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-420, filed 1/30/80; 79-11-019 (Order DE 79-19), § 173-19-420, filed 10/9/79; 79-09-001 (Order DE 79-6), § 173-19-420, filed 8/2/79; Order DE 77-16, § 173-19-420, filed 9/9/77; Order DE 74-23, § 173-19-420, filed 12/30/74.]

**WAC 173-19-4201 Bucoda, town of.** Town of Bucoda master program approved May 21, 1976. Revision approved August 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4201, filed 9/14/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4201, filed 1/30/80.]

**WAC 173-19-4202 Lacey, city of.** City of Lacey master program approved May 21, 1976. Revision approved January 5, 1982. Revision approved August 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4202, filed 9/14/84; 82-02-080 (Order DE 81-47), § 173-19-4202, filed 1/6/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4202, filed 1/30/80.]

**WAC 173-19-4203 Olympia, city of.** City of Olympia master program approved May 21, 1976. Revision approved March 29, 1984. Revision approved April 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4203, filed 9/14/84; 84-10-051 (Order DE 84-17), § 173-19-4203, filed 5/2/84; 84-08-028 (Order DE 84-9), § 173-19-4203, filed 3/29/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4203, filed 1/30/80.]

**WAC 173-19-4204 Tenino, town of.** Town of Tenino master program approved May 21, 1976. Revision approved August 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4204, filed 9/14/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4204, filed 1/30/80.]

**WAC 173-19-4205 Tumwater, city of.** City of Tumwater master program approved May 21, 1976. Revision approved August 30, 1984. [Statutory Authority:

RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4205, filed 9/14/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4205, filed 1/30/80.]

**WAC 173-19-4206 Yelm, town of.** Town of Yelm master program approved May 21, 1976. Revision approved January 5, 1982. Revision approved August 30, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-19-038 (Order DE 84-30), § 173-19-4206, filed 9/14/84; 82-02-081 (Order DE 81-48), § 173-19-4206, filed 1/6/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4206, filed 1/30/80.]

**WAC 173-19-4402 Walla Walla, city of.** City of Walla Walla master program approved February 23, 1977. Revision approved July 15, 1981. Revision approved August 6, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-16-105 (Order DE 85-11), § 173-19-4402, filed 8/6/85; 81-16-078 (Order DE 81-21), § 173-19-4402, filed 8/5/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4402, filed 1/30/80.]

**WAC 173-19-450 Whatcom County.** Whatcom County master program approved August 27, 1976. Revision approved April 11, 1977. Revision approved August 11, 1978. Revision approved December 22, 1981. Revision approved January 5, 1982. Revision approved March 4, 1982. Revision approved December 15, 1982. Revision approved March 1, 1984. Revision approved January 31, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-04-040 (Order DE 84-46), § 173-19-450, filed 2/1/85; 84-06-043 (Order DE 83-40), § 173-19-450, filed 3/2/84; 83-02-006 (Order DE 82-45), § 173-19-450, filed 12/23/82; 82-07-005 (Order DE 82-4), § 173-19-450, filed 3/4/82; 82-02-077 (Order DE 81-49), § 173-19-450, filed 1/6/82; 82-01-088 (Order DE 81-31), § 173-19-450, filed 12/22/81. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-450, filed 1/30/80; 79-09-001 (Order DE 79-6), § 173-19-450, filed 8/2/79; Order DE 77-16, § 173-19-450, filed 9/9/77; Order DE 76-15, § 173-19-450, filed 5/3/76; Order DE 74-23, § 173-19-450, filed 12/30/74.]

**WAC 173-19-4501 Bellingham, city of.** City of Bellingham master program approved September 30, 1974. Revision approved March 29, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-08-029 (Order DE 84-11), § 173-19-4501, filed 3/29/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4501, filed 1/30/80.]

**WAC 173-19-4502 Blaine, city of.** City of Blaine master program approved September 29, 1975. Revision

approved August 30, 1977. Revision approved December 28, 1978. Revision approved June 26, 1980. Revision approved April 6, 1982. Revision approved July 18, 1984. Revision approved October 10, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-21-065 (Order DE-84-35), § 173-19-4502, filed 10/17/84; 84-16-006 (Order DE 84-20), § 173-19-4502, filed 7/19/84; 82-10-001 (Order DE 82-05), § 173-19-4502, filed 4/23/82. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-08-054 (Order DE 80-25), § 173-19-4502, filed 6/30/80; 80-02-123 (Order DE 79-34), § 173-19-4502, filed 1/30/80.]

**WAC 173-19-4506 Nooksack, city of.** City of Nooksack master program approved September 29, 1975. Revision approved October 1, 1985. [Statutory Authority: RCW 90.58.120 and 90.58.200. 85-20-095 (Order DE 85-21), § 173-19-4506, filed 10/1/85. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120, and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4506, filed 1/30/80.]

**WAC 173-19-4704 Selah, city of.** City of Selah master program approved September 5, 1974. Revision approved March 22, 1984. [Statutory Authority: RCW 90.58.120 and 90.58.200. 84-08-003 (Order DE 84-10), § 173-19-4704, filed 3/22/84. Statutory Authority: RCW 90.58.030 (3)(c), 90.58.120 and 90.58.200. 80-02-123 (Order DE 79-34), § 173-19-4704, filed 1/30/80.]

## Chapter 173-20 WAC

### SHORELINE MANAGEMENT ACT--LAKES CONSTITUTING SHORELINES OF THE STATE

WAC	
173-20-120	Lakes coming under purview of chapter 90.58 RCW--Clallam County lakes.
173-20-130	Lakes coming under purview of chapter 90.58 RCW--Clallam County lakes of state-wide significance.
173-20-550	Lakes coming under purview of chapter 90.58 RCW--Pend Oreille County lakes of state-wide significance.
173-20-700	Lakes coming under purview of chapter 90.58 RCW--Thurston County lakes.

### WAC 173-20-120 Lakes coming under purview of chapter 90.58 RCW--Clallam County lakes.

Location	Section	Name	Area (Acres)	Use
(1) T29N-R14W	20 A/B	Wentworth Lk.	53.8	R
(2) T30N-R7W	15-G	Aldwell Lk.	320.8	P,R
(3) T30N-R8W	22-Q	Sutherland Lk.	360.8	R
(4) T30N-R12W	9-J/K	Beaver Lk.	36.3	R
(5) T30N-R13W	35-E	Pleasant Lk.	486.0	R
(6) T30N-R14W	16-L	Dickey Lk.	527.0	R
(7) T31N-R15W	12-W1/2	Elk Lk.	59.0	R
(8) T31N-R15W	18-E/M	Seafield Lk.	22.0	R

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-20-120, filed 4/15/85; Order DE 76-16, § 173-20-120, filed 5/3/76; Order DE 72-14, § 173-20-120, filed 6/30/72.]

**WAC 173-20-130 Lakes coming under purview of chapter 90.58 RCW--Clallam County lakes of state-wide significance.**

Location	Section	Name	Area (Acres)	Use
T31N-R15W	31-A	Ozette Lk.	7787.0	R

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-20-130, filed 4/15/85; Order DE 76-16, § 173-20-130, filed 5/3/76; Order DE 72-14, § 173-20-130, filed 6/30/72.]

**WAC 173-20-550 Lakes coming under purview of chapter 90.58 RCW--Pend Oreille County lakes of state-wide significance.**

Location	Section	Name	Area (Acres)	Use
(1) T32N-R43E	12-F	Calispell Lk.	1031.0	R
(2) T39N-R44E	31	Sullivan Lk.	1400.0	R,P
(3) T40N-R43E	10-NE1/4	Boundary Res.	1600.0	R,P

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-20-550, filed 4/15/85; Order DE 76-16, § 173-20-550, filed 5/3/76; Order DE 72-14, § 173-20-550, filed 6/30/72.]

**WAC 173-20-700 Lakes coming under purview of chapter 90.58 RCW--Thurston County lakes.**

Location	Section	Name	Area (Acres)	Use
(1) T16N-R1W	13-E	McIntosh Lk.	115.8	R
(2) T16N-R2W	3-NE1/4	Deep Lk.	66.1	R
(3) T17N-R1W	28-K	Bushman Lk. (Tempo)	40.0	R
(4) T17N-R1W	33-E	Offutt Lk.	192.0	R
(5) T17N-R2W	1-L/P	Munn Lk.	29.8	R
(6) T17N-R2W	33-A/H	Scott Lake	66.8	R
(7) T17N-R2W	35-H/J	Pitman Lk.	27.0	R
(8) T18N-R1W	22-H	Long Lk.	311.0	R
(9) T18N-R1W	27-L	Hicks Lk.	171.3	R
(10) T18N-R1W	29-B/G	Chambers Lk. (Little Chambers Lk.)	49.1	R
(11) T18N-R1W	29-C	Chambers Lk. (Russel Lk.)	72.5	R
(12) T18N-R1W	33-H/J	Southwick Lk.	37.1	R
(13) T18N-R1W	35-P	Patterson Lk.	257.0	R
(14) T18N-R2W	15-J	Capitol Lk.	306.0	R
(15) T18N-R2W	16-W1/2	Grass Lk.	120.0	R
(16) T18N-R2W	20-H/J	Ken Lk.	24.6	R
(17) T18N-R2W	22-G	Percival Lk.	22.4	R
(18) T18N-R2W	32-C	Black Lk.	576.1	R
(19) T18N-R2W	36-B/C	Ward Lake	66.8	R
(20) T18N-R2W	36-J	Hewitt Lk.	26.6	R
(21) T18N-R4W	13-A	Summit Lk.	522.6	R
(22) T16N-R2E	29-B	Lawrence Lk.	339.2	R
(23) T16N-R3E	31-S1/2	Clear Lk.	172.8	R
(24) T16N-R3E	32-B/C	Elbow Lk.	36.0	R
(25) T16N-R3E	32-R	Bald Hill Lk.	44.8	R
(26) T18N-R1E	31-32	St. Clair Lk.	244.7	R
(27) T17N-R1W	11	Sunwood Lk.	23.0	D
(28) T15N-R1E	17	Skookumchuck Res.	550.0	D

[Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-20-700, filed 4/15/85; Order DE 73-13, § 173-20-700, filed 8/27/73; Order DE 72-14, § 173-20-700, filed 6/30/72.]

**Chapter 173-22 WAC**

**ADOPTION OF DESIGNATIONS OF WETLANDS ASSOCIATED WITH SHORELINES OF THE STATE**

**WAC**

- 173-22-040 Designation criteria.
- 173-22-060 Designation maps.

**WAC 173-22-040 Designation criteria.** (1) Salt-water areas and lakes. The wetlands shall be measured on a horizontal plane two hundred feet in all directions from the line of vegetation. If there is no vegetative cover, the measurement will be, wherever possible, from a line connecting the lines of vegetation on either side of an area; otherwise, the measurement will be from the mean higher high tide on salt water, and the mean high water on fresh water.

(2) Riverine flood plains.

(a) The wetland area within the flood plains shall be not less than those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark or floodway pursuant to subsection (b) below, whichever is greater. The wetland area shall not be greater than the 100-year flood plain boundary as established by acceptable methods.

(b) Wetland boundaries shall remain as the 100-year flood plain boundary, as defined by chapter 173-22 WAC, unless local government chooses to change the wetland boundaries. If the boundaries are changed, those changes shall be according to one of the following methods:

- (i) Appropriate surface soil type boundaries.
- (ii) Changes in type, quantity or quality of vegetative ground cover.
- (iii) Readily identifiable natural barriers or permanent flood control devices such as levees, dikes or revetments.
- (iv) Any reasonable method which meets the objectives of the Shoreline Management Act.

(c) The proposed revision of wetland boundaries by any of the above methods must be submitted to the department of ecology for review. Prior to submittal to the department of ecology, a decision as to the relative environmental significance of the revision shall be made pursuant to chapter 197-10 WAC, the SEPA guidelines. If the department of ecology is satisfied that the proposal conforms to the criteria contained herein, the local shoreline master program shall be revised to reflect the boundary changes. The department of ecology shall amend chapter 173-19 WAC (state master program) at a reasonable interval following amendment of the local shoreline master program.

(3) Marshes, bogs and swamps. If marshes, bogs and swamps which constitute associated wetlands extend more than two hundred feet beyond the ordinary high-water mark of the body of water with which they are associated, their perimeters shall be the outer limit of the wetland designation. Such marshes, bogs and swamps shall be defined and designated according, but not limited to, the following definitions:

(a) Marsh – A low flat area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage, and other aquatic or semi-aquatic plant. Shallow water usually stands on a marsh, at least during a considerable part of the year. The surface is commonly soft mud or muck.

(b) Bog – A depression or other undrained or poorly drained area containing, or covered with, peat (usually more than one layer) on which characteristic kinds of sedges, reeds, rushes, mosses, and other similar plants grow. In the early stages of development the vegetation is herbaceous and the peat is very wet. In middle stages the dominant vegetation is brush. In mature stages trees are usually the dominant vegetation, and the peat, at least near the surface, may be comparatively dry.

(c) Swamp – A swamp is similar to a marsh except that trees and shrubs comprise the characteristic vegetation. Marshes and swamps merge into each other, and both tend to merge into bogs. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-09-043 (Order DE 85-05), § 173-22-040, filed 4/15/85. Statutory Authority: RCW 90.58.030 (2)(f), 90.58.120, and 90.58.200. 80-08-086 (Order DE 80-22), § 173-22-040, filed 7/2/80; Order DE 76-30, § 173-22-040, filed 7/27/76; Order DE 73-11, § 173-22-040, filed 7/20/73; Order DE 72-15, § 173-22-040, filed 6/30/72.]

**WAC 173-22-060 Designation maps.** Due to the bulk of the maps designating the wetland areas, they are not included in the text of this chapter, but rather are incorporated herein as an appendix hereto, having full legal force and effect as if published herein. Copies of the appendix are available to the public at all reasonable times for inspection in the headquarters of the department of ecology in Olympia, the Washington state code reviser's office, the appropriate county auditor and city clerk. Copies of portions thereof, or of the complete set, will be available from the department at the expense of the party requesting the same. Volumes I, II, and III entitled "Shorelines under the Shoreline Management Act of 1971" (chapter 90.58 RCW, chapter 286, Laws of 1971 1st ex. sess.) were adopted by reference on June 30, 1972. Revisions to the designation maps were adopted on August 28, 1973; August 31, 1977; August 10, 1978; June 26, 1980; June 9, 1981; April 9, 1985; and June 18, 1985. [Statutory Authority: RCW 90.58.030, 90.58.120 and 90.58.200. 85-14-001 (Order 85-15), § 173-22-060, filed 6/20/85; 85-09-043 (Order DE 85-05), § 173-22-060, filed 4/15/85. Statutory Authority: RCW 90.58.120, 90.58.200 and 90.58.030 (2)(f). 81-13-034 (Order DE 81-18), § 173-22-060, filed 6/15/81; Order DE 72-15, § 173-22-060, filed 6/30/72.]

## Chapter 173-100 WAC

### GROUND WATER MANAGEMENT AREAS AND PROGRAMS

#### WAC

173-100-010	Purpose.
173-100-020	Authority.
173-100-030	Overview.
173-100-040	Definitions.
173-100-050	Probable ground water management areas.
173-100-060	General schedule.
173-100-070	Designation of ground water management areas for program planning purposes.
173-100-080	Lead agency responsibilities.
173-100-090	Ground water advisory committee.
173-100-100	Ground water management program content.
173-100-110	SEPA review.
173-100-120	Hearings and implementation.
173-100-130	Designation of ground water areas.
173-100-140	Inter-governmental agreements.
173-100-150	Appeals.

**WAC 173-100-010 Purpose.** The purpose of this chapter is to establish guidelines, criteria, and procedures for the designation of ground water management areas, subareas or zones and to set forth a process for the development of ground water management programs for such areas, subareas, or zones, in order to protect ground water quality, to assure ground water quantity, and to provide for efficient management of water resources for meeting future needs while recognizing existing water rights. The intent of this chapter is to forge a partnership between a diversity of local, state, tribal and federal interests in cooperatively protecting the state's ground water resources. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-010, filed 12/20/85.]

**WAC 173-100-020 Authority.** This chapter is promulgated by the department of ecology pursuant to RCW 90.44.400, 90.44.410, 90.44.420, 90.44.430 and 90.44.440. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-020, filed 12/20/85.]

**WAC 173-100-030 Overview.** This regulation establishes a process for the identification and designation of ground water management areas and for the development of comprehensive ground water management programs. From a general schedule of probable ground water management areas, the department of ecology in cooperation with local government will designate specific ground water management areas, subareas, or depth zones within such areas and will appoint a lead agency to develop a ground water management program and an advisory committee to oversee the development of the program for each designated area. Following completion of the program and a public hearing to be held by the department of ecology, the program must be certified to be consistent with the intent of this chapter. The program will then be implemented through state regulations and local ordinances. The programs must thereafter be

periodically reviewed. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-030, filed 12/20/85.]

**WAC 173-100-040 Definitions.** For the purposes of this chapter the following definitions shall apply:

(1) "Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(2) "Department" means the Washington State department of ecology.

(3) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(4) "Ground water advisory committee" means a committee appointed by the department to assist in the development of a ground water management program.

(5) "Ground water area or subarea" means a geographic area designated pursuant to RCW 90.44.130.

(6) "Ground water management area" means a specific geographic area or subarea designated pursuant to this chapter for which a ground water management program is required.

(7) "Ground water management program" means a comprehensive program designed to protect ground water quality, to assure ground water quantity and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated ground water management area or subarea and developed pursuant to this chapter.

(8) "Ground water management zone" means any depth or stratigraphic zone separately designated by the department in cooperation with local government for ground water management purposes within a ground water management area. Ground water management zones may consist of a specific geologic formation or formations or other reasonable bounds determined by the department consistent with the purposes of this chapter.

(9) "Ground water right" means an authorization to use ground water established pursuant to chapter 90.44 RCW, state common or statutory law existing prior to the enactment of chapter 90.44 RCW, or federal law.

(10) "Ground water user group" means an established association of holders of ground water rights located within a proposed or designated ground water management area.

(11) "Lead agency" means the agency appointed by the department to coordinate and undertake the activities necessary for the development of a ground water management program. Either the department or an agency of local government may be the lead agency.

(12) "Local government" means any county, city, town, or any other entity having its own incorporated government for local affairs including, but not limited to, a metropolitan municipal corporation, public utility

district, water district, irrigation district, and/or sewer district.

(13) "Local government legislative authority" means the city or town council, board of county commissioners, special district commission, or that body assigned such duties by a city, county or district charter as enacting ordinances, passing resolutions, and appropriating funds for expenditure.

(14) "Probable ground water management area" means a specific geographic area identified by the department, in cooperation with other state agencies, local government and ground water user groups, as a candidate area for designation as a ground water management area pursuant to this chapter. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-040, filed 12/20/85.]

**WAC 173-100-050 Probable ground water management areas.** The department in cooperation with local government and ground water user groups shall identify probable ground water management areas.

(1) Probable ground water management areas may be proposed for identification at any time by the department upon its own motion or at the request of other state agencies, local government or ground water user groups.

(2) Probable ground water management area boundaries shall be delineated so as to enclose one or more distinct bodies of public ground water as nearly as known facts permit. Probable ground water management subareas shall be delineated so as to enclose all or any part of a distinct body of public ground. Boundaries shall be based on hydrogeologic properties such as limits to lateral extent of aquifers, major perennial rivers, and regional ground water divides or as deemed appropriate by the department to most effectively accomplish the purposes of this chapter.

(3) The criteria to guide identification of probable ground water management areas shall include, but not be limited to, the following:

(a) Geographic areas where ground water quality is threatened;

(b) Aquifers that are declining due to restricted recharge or over-utilization;

(c) Aquifers in which over-appropriation may have occurred and adjudication of water rights has not yet been completed;

(d) Aquifers reserved or being considered for water supply reservation under chapter 90.54 RCW for future beneficial uses;

(e) Aquifers identified as the primary source of supply for public water supply systems;

(f) Aquifers underlying a critical water supply service area where the coordinated water system plan established pursuant to chapter 70.116 RCW has identified a need for a ground water management program;

(g) Aquifers designated as sole source aquifers by the federal Environmental Protection Agency;

(h) Geographic areas where the ground water is susceptible to contamination or degradation resulting from land use activities;

- (i) Aquifers threatened by seawater intrusion; or
- (j) Aquifers from which major ground water withdrawals have been proposed or appear imminent.

(4) The state agency, local government or ground water user group requesting probable ground water management area identification shall provide sufficient information for the department to determine if the area should be so identified. The department and other affected state and local governments and user groups may cooperate in preparing the request for identification.

(a) The request for identification shall be presented in a concise, factual report form and shall consider the guidelines and criteria set forth in subsections (2) and (3) of this section as they relate to the proposed area. It shall also contain: (i) Supporting data as to the need for such identification; (ii) a general description of and rationale for the proposed ground water management area boundary; (iii) goals and objectives for the proposed ground water management area; (iv) an estimated cost of developing the ground water management program and potential funding sources; (v) recommendations for agencies, organizations and groups to be represented on the ground water management area advisory committee; and (vi) a recommendation for the lead agency, taking into consideration the responsibilities contained in WAC 173-100-080.

(b) The recommendation for lead agency shall first be submitted to the county or counties with jurisdiction for written concurrence. Such written concurrence shall be included with the information required in (a) of this subsection. If such concurrence cannot be obtained, the department shall attempt to mediate an agreement between the parties.

(c) The agency or ground water user group initiating the request for identification shall hold at least one public meeting for the purpose of receiving comments from the public, affected local, state and tribal agencies and ground water user groups.

(d) Upon completion, the request for identification shall be submitted to the department and other affected state and local agencies and ground water user groups for their review and comment. Comments shall be submitted to the department.

(5) If the department is proposing an area for identification, the department shall prepare a report containing the information in subsection (4)(a) of this section, hold a public meeting, and submit the report to affected state and local agencies and ground water user groups for their review and comment.

(6) Based upon review of the request for identification together with any comments received and a finding that the proposed area meets the guidelines and criteria of subsections (2) and (3) of this section, the department shall identify the proposed area as a probable ground water management area, establish the general planning boundaries and appoint a lead agency. When a probable ground water management area is included within only one county and that county indicates its desire to assume lead agency status, the department shall appoint the county as lead agency. The department shall notify affected state and local agencies, ground water user

groups, tribal governments and local news media of such identification. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-050, filed 12/20/85.]

**WAC 173-100-060 General schedule.** The department shall establish a general schedule for the designation of specific ground water management areas. The general schedule shall guide the department in the designation of specific ground water management areas and in the allocation of the department's available water resources funding and staffing.

(1) The general schedule for designation of ground water management areas shall identify the relative priority of each of the probable ground water management areas. The relative priority of the probable ground water management areas shall be based upon:

(a) The availability of local or state agency resources to develop and implement a ground water management program;

(b) The significance, severity or urgency of the problems or potential problems described in the request for identification submitted for each area, with the highest priority given to areas where the water quality is imminently threatened;

(2) The department shall revise the general schedule as needed to comply with the intent of this chapter. After each revision the general schedule shall be published in the news media and the Washington State Register. A public hearing will be held in June of each year to receive public comment on the general schedule. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-060, filed 12/20/85.]

**WAC 173-100-070 Designation of ground water management areas for program planning purposes.** The department shall designate ground water management areas by order of the department in accordance with the general schedule. The department shall hold a public hearing within the county or counties containing the probable ground water management area prior to such designation. The order shall be issued to the lead agency as well as the agency or ground water user group originally requesting identification of the areas, with copies sent to other affected state agencies, local governments, tribal governments and those parties recommended for ground water advisory committee membership. Copies of the order shall be published by the department in newspapers of general circulation within the area. The order shall contain a general description of the planning boundary for the ground water management area and shall state that the department, in cooperation with the lead agency and local government, intends to appoint a ground water advisory committee to oversee the development of a ground water management program for the area. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-070, filed 12/20/85.]

**WAC 173-100-080 Lead agency responsibilities.** The lead agency shall be responsible for coordinating and undertaking the activities necessary for development



of the ground water management program. These activities shall include collecting data and conducting studies related to hydrogeology, water quality, water use, land use, and population projections; scheduling and coordinating advisory committee meetings; presenting draft materials to the committee for review; responding to comments from the committee; coordinating SEPA review; executing inter-local agreements or other contracts; and other duties as may be necessary. The lead agency shall also prepare a work plan, schedule, and budget for the development of the program that shows the responsibilities and roles of each of the advisory committee members as agreed upon by the committee. Data collection, data analysis and other elements of the program development may be delegated by the lead agency to other advisory committee members. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-080, filed 12/20/85.]

**WAC 173-100-090 Ground water advisory committee.** (1) The ground water advisory committee shall be responsible for overseeing the development of the ground water management program; reviewing the work plan, schedule and budget for the development of the program; assuring that the program is technically and functionally sound; verifying that the program is consistent with this chapter and with the respective authorities of the affected agencies; and formulating and implementing a public involvement plan.

(2) The membership of each ground water advisory committee shall represent a broad spectrum of the public in order to ensure that the ground water is protected and utilized for the greatest benefit to the people of the state. The committee shall include, but not be limited to, representation from the following groups:

- (a) Local government legislative authorities within the designated area;
- (b) Planning agencies having jurisdiction within the designated area;
- (c) Health agencies having jurisdiction within the designated area;
- (d) Ground water user groups within the designated area, including domestic well owners;
- (e) The department;
- (f) Department of social and health services;
- (g) Other local, state, and federal agencies as determined to be appropriate by the department;
- (h) Tribal governments, where a ground water management program may affect tribal waters;
- (i) Public and special interest groups such as agricultural, well drilling, forestry, environmental, business and/or industrial groups within the area, as determined to be appropriate by the department.

(3) The department shall appoint, by letter, members and alternates to the ground water advisory committee after seeking nominations from the groups listed above. Members and alternates shall serve until the ground water management program for the area is certified. The department may appoint replacement members or alternates upon request of the appointee or the ground water advisory committee.

(4) The lead agency shall hold the first meeting of the ground water advisory committee within sixty days of the appointment of the committee. Public notice shall be given for each meeting. The lead agency shall chair the first meeting, during which the advisory committee shall determine, by general agreement, rules for conducting business, including voting procedures, and the chairperson of the advisory committee. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-090, filed 12/20/85.]

**WAC 173-100-100 Ground water management program content.** The program for each ground water management area will be tailored to the specific conditions of the area. The following guidelines on program content are intended to serve as a general framework for the program, to be adapted to the particular needs of each area. Each program shall include, as appropriate, the following:

- (1) An area characterization section comprised of:
  - (a) A delineation of the ground water area, subarea or depth zone boundaries and the rationale for those boundaries;
  - (b) A map showing the jurisdictional boundaries of all state, local, tribal, and federal governments within the ground water management area;
  - (c) Land and water use management authorities, policies, goals and responsibilities of state, local, tribal, and federal governments that may affect the area's ground water quality and quantity;
  - (d) A general description of the locale, including a brief description of the topography, geology, climate, population, land use, water use and water resources;
  - (e) A description of the area's hydrogeology, including the delineation of aquifers, aquitards, hydrogeologic cross-sections, porosity and horizontal and vertical permeability estimates, direction and quantity of ground water flow, water-table contour and potentiometric maps by aquifer, locations of wells, perennial streams and springs, the locations of aquifer recharge and discharge areas, and the distribution and quantity of natural and man-induced aquifer recharge and discharge;
  - (f) Characterization of the historical and existing ground water quality;
  - (g) Estimates of the historical and current rates of ground water use and purposes of such use within the area;
  - (h) Projections of ground water supply needs and rates of withdrawal based upon alternative population and land use projections;
  - (i) References including sources of data, methods and accuracy of measurements, quality control used in data collection and measurement programs, and documentation for and construction details of any computer models used.
- (2) A problem definition section that discusses land and water use activities potentially affecting the ground water quality or quantity of the area. These activities may include but are not limited to:

-Commercial, municipal, and industrial discharges

- Underground or surface storage of harmful materials in containers susceptible to leakage
- Accidental spills
- Waste disposal, including liquid, solid, and hazardous waste
- Storm water disposal
- Mining activities
- Application and storage of roadway deicing chemicals
- Agricultural activities
- Artificial recharge of the aquifer by injection wells, seepage ponds, land spreading, or irrigation
- Aquifer over-utilization causing seawater intrusion, other contamination, water table declines or depletion of surface waters
- Improperly constructed or abandoned wells
- Confined animal feeding activities

The discussion should define the extent of the ground water problems caused or potentially caused by each activity, including effects which may extend across ground water management area boundaries, supported by as much documentation as possible. The section should analyze historical trends in water quality in terms of their likely causes, document declining water table levels and other water use conflicts, establish the relationship between water withdrawal distribution and rates and water level changes within each aquifer or zone, and predict the likelihood of future problems and conflicts if no action is taken. The discussion should also identify land and water use management policies that affect ground water quality and quantity in the area. Areas where insufficient data exists to define the nature and extent of existing or potential ground water problems shall be documented.

(3) A section identifying water quantity and quality goals and objectives for the area which (a) recognize existing and future uses of the aquifer, (b) are in accordance with water quality standards of the department, the department of social and health services, and the federal environmental protection agency, and (c) recognize annual variations in aquifer recharge and other significant hydrogeologic factors;

(4) An alternatives section outlining various land and water use management strategies for reaching the program's goals and objectives that address each of the ground water problems discussed in the problem definition section. If necessary, alternative data collection and analysis programs shall be defined to enable better characterization of the ground water and potential quality and quantity problems. Each of the alternative strategies shall be evaluated in terms of feasibility, effectiveness, cost, time and difficulty to implement, and degree of consistency with local comprehensive plans and water management programs such as the coordinated water system plan, the water supply reservation program, and others. The alternative management strategies shall address water conservation, conflicts with existing water rights and minimum instream flow requirements, programs to resolve such conflicts, and long-term policies and construction practices necessary to protect existing water rights and subsequent facilities installed in

accordance with the ground water management area program and/or other water right procedures.

(5) A recommendations section containing those management strategies chosen from the alternatives section that are recommended for implementation. The rationale for choosing these strategies as opposed to the other alternatives identified shall be given;

(6) An implementation section comprised of:

(a) A detailed work plan for implementing each aspect of the ground water management strategies as presented in the recommendations section. For each recommended management action, the parties responsible for initiating the action and a schedule for implementation shall be identified. Where possible, the implementation plan should include specifically worded statements such as model ordinances, recommended governmental policy statements, interagency agreements, proposed legislative changes, and proposed amendments to local comprehensive plans, coordinated water system plans, basin management programs, and others as appropriate;

(b) A monitoring system for evaluating the effectiveness of the program;

(c) A process for the periodic review and revision of the ground water management program. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-100, filed 12/20/85.]

**WAC 173-100-110 SEPA review.** The proposed ground water management program shall be subject to review pursuant to the State Environmental Policy Act, chapter 43.21C RCW, as required under the applicable implementing regulations. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-110, filed 12/20/85.]

**WAC 173-100-120 Hearings and implementation.**

(1) Upon completion of the ground water area management program, the department shall hold a public hearing within the designated ground water management area for the purpose of taking public testimony on the proposed program. Local governments are encouraged to hold joint hearings with the department to hear testimony on the proposed management program. Following the public hearing, the department and each affected local government shall prepare findings on the ground water management program within ninety days. This period may be extended by the department for an additional ninety days. The findings shall evaluate the program's technical soundness, economic feasibility, and consistency with the intent of this chapter and other federal, state and local laws. The findings shall identify any revisions necessary before the program can be certified and shall contain a statement of the agency's concurrence, indicating its intent to adopt implementing policies, ordinances and programs if required, or a statement of nonconcurrence with the program if such be the case.

(2) The lead agency will consolidate the findings and present them to the advisory committee. Statements of

nonconcurrence shall be resolved by the committee and the program revised if necessary.

(3) The program shall then be submitted by the ground water advisory committee to the department which shall certify that the program is consistent with the intent of this chapter.

(4) Following such certification, state agencies and affected local governments shall adopt or amend regulations, ordinances, and/or programs for implementing those provisions of the ground water management program which are within their respective jurisdictional authorities.

(5) The department, the department of social and health services and affected local governments shall be guided by the adopted program when reviewing and considering approval of all studies, plans and facilities that may utilize or impact the implementation of the ground water management program. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-120, filed 12/20/85.]

**WAC 173-100-130 Designation of ground water areas.** The procedures provided in RCW 90.44.130 may be utilized by the department to designate ground water areas, subareas, or zones for the purposes described therein either in conjunction with the procedures of this chapter or independently thereof. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-130, filed 12/20/85.]

**WAC 173-100-140 Inter-governmental agreements.** In order to fully implement this chapter, the department may negotiate and enter into cooperative agreements with Indian tribal governments, adjacent states and Canadian governmental agencies when a ground water management area is contiguous with or affects lands under their jurisdiction. Such cooperative agreements shall not affect the jurisdiction over any civil or criminal matters that may be exercised by any party to such an agreement. Inter-governmental agreements shall further the purposes of this chapter, and shall serve to establish a framework for inter-governmental coordination, minimize duplication, and efficiently utilize program resources to protect ground water resources. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-140, filed 12/20/85.]

**WAC 173-100-150 Appeals.** All final written decisions of the department pertaining to designation of ground water management areas, certification of ground water management programs, permits, regulatory orders, and related decisions pursuant to this chapter shall be subject to review by the pollution control hearings board under chapter 43.21B RCW. [Statutory Authority: RCW 90.44.400. 86-02-004 (Order DE 85-24), § 173-100-150, filed 12/20/85.]

## Chapter 173-145 WAC

### ADMINISTRATION OF THE FLOOD CONTROL ASSISTANCE ACCOUNT PROGRAM

#### WAC

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**WAC 173-145-010 Authority and purpose.** Chapter 212, Laws of 1984, regular session, amended chapter 86.26 RCW, state participation in flood control maintenance (the act); RCW 86.26.010 and 86.16.170 provide that the Washington department of ecology (WDOE) shall administer and enforce the flood control assistance account program (FCAAP) established by the act. This chapter describes the manner in which WDOE will implement the provisions of the act. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-010, filed 6/21/85.]

**WAC 173-145-020 Definitions.** For the purposes of this chapter and subsequent regulations formulated for floodplain management programs in Washington, the following definitions shall be used:

(1) "Applicant" is an eligible municipal corporation seeking matching funds for flood control maintenance work.

(2) "Appropriate local authority" is a county, city, or town having planning and land use jurisdiction within the area covered by the CFCMP.

(3) "Comprehensive flood control management plan (CFCMP)" is a document which provides a means of planning for and evaluating the impacts of a flood control program within a river basin, subbasin, or other area to ensure that work done on specific project activities is compatible with the goals and objectives for the area covered by the plan, as described in WAC 173-145-040.

(4) "County engineer" is the appointed public works director, county engineer, or the person designated to act for the county engineer.

(5) "Eligible municipal corporation" includes but is not limited to counties, cities, towns, conservation districts, and any special districts which have flood control responsibilities.

(6) "Emergency fund" is that portion of the biennial appropriation allocated to the flood control assistance account which is set aside for emergency projects.

(7) "Emergency project" is flood control work as authorized and approved by WDOE which must be done immediately to protect lives and property.

(8) "Flood compatible land uses" those uses of the land within the river's meander belt or floodway which comply with the minimum state, federal, and local flood plain management regulation requirements.

(9) "Flood control responsibility" is any statutory responsibility which includes or is directly related to controlling flood waters, prevention of flood damages, or the protection of life and property from flood damages.

(10) "Floodplain management activities" are activities as defined in WAC 173-145-050 to be performed by local governments through ordinances or other means to reduce the damaging effects of flooding.

(11) "Floodway" means the regulatory floodway as defined in WAC 173-145-020(14).

(12) "Maintenance project" is the work necessary to preserve or restore the natural condition or to restore man-made flood control facilities to their former condition using in-kind replacement materials or acceptable alternatives. This work is necessary due to damage or destruction from flooding by action of erosion, stream flow, sheet runoff, or other damages by the sea or other bodies of water.

(13) "Meander belt" is that portion of the floodplain, for streams which have meandered over recent times, that can be identified by the evidence of present and previous meanders. This shall include the present stream channel.

(14) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base (one hundred year frequency) flood without cumulatively increasing the water surface elevation more than a designated height. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-020, filed 6/21/85.]

**WAC 173-145-030 Eligibility criteria for FCAAP funds.** Criteria to be used in determining eligibility of an FCAAP project application are as follows:

(1) Eligible municipal corporation. The applicant must be an eligible municipal corporation as defined in WAC 173-145-020(5).

(2) Public benefit. It shall be clearly demonstrated that the projects shall display a general public and state interest as differentiated from a private interest and they shall bring about public benefits commensurate with FCAAP funds provided.

(3) Comprehensive flood control management plan. The requirements of WAC 173-145-040 must be complied with by the appropriate local authority with flood control jurisdiction over the area where the proposed project is located.

(4) Floodplain management activities. The appropriate local authority within whose jurisdiction projects are located shall be engaging in those certain floodplain management activities as described in WAC 173-145-050.

(5) Budget report. Any eligible municipal corporation seeking FCAAP funds shall submit its annual budget for flood control purposes to the county engineer within thirty calendar days after its final adoption. The budget

report for eligible municipal corporations and for the county shall be submitted to WDOE by the county engineer not later than February 15 of every year. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-030, filed 6/21/85.]

**WAC 173-145-040 Comprehensive flood control management plan.** The county engineer of the county within which the maintenance project is located must certify that the plan has been completed and adopted by the appropriate local authority or is being prepared. The comprehensive plan must be completed and adopted within three years of the date that it is certified as being prepared. The appropriate local authority may require the applicant to fully or partially fund the preparation of the CFCMP. The plan must include:

- (1) Determination of the need for flood control work.
  - (a) Description of the watershed.
  - (b) Identification of types of watershed flood problems.
  - (c) Location and identification of specific problem areas.
  - (d) Description of flood damage history.
  - (e) Description of potential flood damages.
  - (f) Short-term and long-term goals and objectives for the planning area.
- (2) Alternative flood control work.
  - (a) Description of potential measures of instream flood control work.
  - (b) Description of alternatives to instream flood control work.
  - (3) Identification and consideration of potential impacts of instream flood control work on the following instream uses and resources.
    - (a) Fish resources.
    - (b) Wildlife resources.
    - (c) Scenic, aesthetic, and historic resources.
    - (d) Navigation.
    - (e) Water quality.
    - (f) Hydrology.
    - (g) Existing recreation.
    - (h) Other.
- (4) Area of coverage for the comprehensive plan shall include, as a minimum, the area of the one-hundred year frequency floodplain within a reach of the watershed of sufficient length to ensure that a comprehensive evaluation can be made of the flood problems for a specific reach of the watershed. The plan may or may not include an entire watershed. Comprehensive plans shall also include flood hazard areas not subject to riverine flooding such as areas subject to coastal flooding, flash flooding, or flooding from inadequate drainage. The meander belt or regulatory floodway shall be identified on aerial photographs or maps which will be included with the plan.
- (5) Conclusion and proposed solution(s). The CFCMP shall be finalized by the following action from the appropriate local authority:
  - (a) Evaluation of problems and needs;
  - (b) Evaluation of alternative solutions;

(c) Recommended corrective action(s) with proposed impact resolution measures for resource losses; and

(d) Corrective action priority. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-040, filed 6/21/85.]

**WAC 173-145-050 Floodplain management activities.** To be eligible for FCAAP funding, the appropriate local authorities within whose jurisdiction the maintenance projects are located, must be engaging in floodplain management activities which will protect or prevent flood damages from occurring to future structures, works, and improvements within their jurisdiction. The department of ecology shall find that they are:

(1) Participating in the National Flood Insurance Program (NFIP) and meeting all of the NFIP requirements.

(2) Certify through the state department of emergency management that the local emergency management organization is administering an acceptable comprehensive emergency operations plan.

(3) Restricting land uses within the meander belt or floodway of rivers to only flood compatible uses. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-050, filed 6/21/85.]

**WAC 173-145-060 FCAAP project application process.** The project application process for the eligible municipal corporations' applications shall include the following in the general sequence given.

(1) The applicant shall prepare the project application to comply with the provisions of chapter 86.26 RCW and this chapter. The application shall be made on a form furnished by WDOE. A complete application shall include the following:

(a) A written description and cost estimate of the project;

(b) A vicinity map and sketch to identify water body names, stream river mile, section-township-range;

(c) A general plan drawing of the project on an "8 1/2 x 11" or "8 1/2 x 14" sheet; and

(d) A description of the project benefits which describe how the project will mitigate flood damages and describe development which exists on adjacent and nearby lands which are protected by the facility.

(2) The applicant shall review the preliminary project proposal with the county engineer, the Washington departments of fisheries or game and the department of natural resources and any affected Indian tribes.

(3) The applicant shall submit a prioritized list of project applications to the county engineer.

(4) The county engineer shall submit a prioritized list of all project applications within the county to WDOE.

(5) The county engineer shall furnish evidence to WDOE that the comprehensive flood control management plan described in WAC 173-145-040 is completed or underway and the floodplain management activities described in WAC 173-145-050 are being implemented. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-060, filed 6/21/85.]

**WAC 173-145-070 FCAAP project approval process.** The project approval process for the eligible municipal corporations' applications shall include the following in the general sequence given.

(1) WDOE will review all projects for compliance with the requirements pursuant to this chapter and chapter 86.26 RCW.

(2) WDOE shall consult with the departments of fisheries, game, and natural resources and any affected Indian tribes regarding the list of projects.

(3) WDOE will incorporate the prioritized list of eligible projects into its biennial budget for funding.

(4) WDOE shall prepare and finalize the written agreements with the counties.

(5) The counties shall prepare and finalize the written agreements with the involved eligible municipal corporations within the county.

(6) The construction plans and specifications shall be prepared by the applicant for approval by the county engineer prior to submission to WDOE for review of each project for compliance with all requirements.

(7) The applicant shall acquire the necessary federal, state, and local permits or authorizations along with any other permission required to complete the project. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-070, filed 6/21/85.]

**WAC 173-145-080 Priority of FCAAP projects.** The priority given to projects by WDOE, the counties, and other eligible municipal corporations shall involve consideration of the following criteria:

(1) The public benefits from the project shall be commensurate with the amount of FCAAP funds granted for the project. Higher priorities will be given to those projects which display greater public benefits as they relate to the project cost.

(2) The priority given to the projects by WDOE shall consider the priority which has already been established by each county. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-080, filed 6/21/85.]

**WAC 173-145-090 Flood control assistance account contributions and project match requirements.** The following criteria shall be used regarding the FCAAP funding for all projects:

(1) The amount of FCAAP contributions for any project shall not exceed fifty percent of the total project construction cost.

(2) The total FCAAP contribution for all nonemergency projects in any county shall not exceed \$500,000 per biennium.

(3) \$3.4 million per biennium will be obligated on a priority basis for nonemergency projects.

(4) Up to \$500,000 per biennium will be funded on a priority basis by WDOE when determined that unused emergency funds are available for nonemergency projects.

(5) Up to \$100,000 per biennium may be used for WDOE administrative costs. [Statutory Authority:

Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-090, filed 6/21/85.]

**WAC 173-145-100 Emergency fund administration.** The following criteria shall be the basis of allocating the emergency fund moneys:

(1) Appropriations from the FCAAP fund for emergency projects will require the declaration of an emergency by the appropriate local authority.

(2) Application for emergency funds must be made on the same form used for nonemergency fund applications.

(3) Payment of FCAAP funds for emergency projects will be based on project construction costs. Flood fighting costs may be included.

(4) Payment from the emergency fund shall be allocated on a first-come first-serve basis and shall not be based on any priority system.

(5) Emergency project grants shall be approved by the director of the department of ecology.

(6) The maximum amount of money allocated for emergency projects shall be \$500,000 per biennium.

(7) At the discretion of WDOE, emergency funds may be made available for use on nonemergency projects when future emergencies are improbable.

(8) The maximum amount initially available for any one county is \$150,000 per biennium. If the total \$500,000 is not used by other counties, and emergency work exceeds \$150,000 in a county, the county can request additional emergency funds.

(9) The flood control assistance account contribution shall not exceed eighty percent of the eligible project cost of an emergency project. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-100, filed 6/21/85.]

**WAC 173-145-110 Multi-year projects.** Approval for eligibility by WDOE will only be required once for a project which continues more than one biennium, but funding after the first biennium is subject to further FCAAP appropriation by the legislature. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-110, filed 6/21/85.]

**WAC 173-145-120 Work standards for all FCAAP projects.** All work which is funded from the flood control assistance account shall conform to the standards and specifications of the U.S. Army Corps of Engineers, the U.S. Department of Agriculture Soil Conservation Service or the county engineer. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-120, filed 6/21/85.]

**WAC 173-145-130 Project construction monitoring.** Following are the responsibilities and criteria for project construction monitoring and final approval.

(1) County engineer responsibilities. Associated with responsibility for project plan approval and supervision of the project work, the county engineer shall provide inspection to assure that all project work is conducted and completed according to the construction plans and specifications.

(2) WDOE responsibilities. The department of ecology shall monitor and inspect the project work as necessary to assure compliance with the terms of the appropriate written agreement.

(3) Final inspection and approval. Upon completion of the work, a final detailed inspection shall be made by the county engineer along with representatives from WDOE and the applicant. Results of the final inspection shall be displayed in a written report and, when appropriate, on "as built" construction plans. These shall be submitted to WDOE within thirty days after the final project inspection. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-130, filed 6/21/85.]

**WAC 173-145-140 Written agreements.** Written agreements will be prepared by WDOE as a means to reimburse eligible municipal corporations for work done on approved eligible projects. The dollar amount specified in the written agreements shall not exceed the estimated cost(s) of the project(s) as displayed on the project application(s). Billing and payment shall comply with the WDOE standard requirements for grants and contracts. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-140, filed 6/21/85.]

**WAC 173-145-150 Equipment rental.** For noncontractual work, the equipment rental rates for applicant owned or rented equipment used on the project work shall not exceed the rates determined in accordance with the state budget accounting and reporting system (BARS) or rates provided by the current FEMA rental rate structure. [Statutory Authority: Chapter 86.26 RCW. 85-14-002 (Order DE 85-10), § 173-145-150, filed 6/21/85.]

## Chapter 173-150 WAC

### PROTECTION OF WITHDRAWAL FACILITIES ASSOCIATED WITH GROUND WATER RIGHTS

#### WAC

173-150-010	Purpose.
173-150-020	Authority.
173-150-030	Definitions.
173-150-040	Reasonable or feasible pumping lift.
173-150-050	Establishment of new rights—Interference considerations.
173-150-060	Impairment of water right.
173-150-070	Notification of impairment of right.
173-150-080	Procedures for correction of impairment.
173-150-090	Voluntary agreements.
173-150-100	Water quality.
173-150-110	Saltwater intrusion and ground water contamination.
173-150-120	Applicability.
173-150-130	Appeals.
173-150-140	Existing laws and regulations not affected.

**WAC 173-150-010 Purpose.** The purpose of this chapter is to establish and set forth the policies and procedures of the department of ecology in regard to the protection of the availability of ground water as it pertains to the water withdrawal facilities of holders of

ground water rights. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-010, filed 5/29/85.]

**WAC 173-150-020 Authority.** This chapter is promulgated by the department of ecology pursuant to chapters 43.21A, 90.44, 90.54 and 18.104 RCW. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-020, filed 5/29/85.]

**WAC 173-150-030 Definitions.** For the purposes of this chapter the following definitions shall apply:

(1) "Department" means the Washington state department of ecology.

(2) "Ground water right" means an authorization to use ground water established pursuant to chapter 90.44 RCW, state common or statutory law existing prior to the enactment of chapter 90.44 RCW, or federal law.

(3) "Withdrawal facilities" means and includes any well, infiltration trench or other excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, together with the casing, screen, pump, pump column, motor and related equipment, which is used for the withdrawal of ground water.

(4) "Aquifer" means any geologic formation that will yield water to a well or other withdrawal works in sufficient quantity for beneficial use.

(5) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

(6) "Contamination" means an impairment of the beneficial use of ground water arising from the modification of the quality thereof by the introduction of organisms, chemical, organic or radioactive material or of heated or cooled water.

(7) "Significant modification" means the deepening or reaming of a well, lowering the pump bowls by adding lengths of pump column, adding water quality treatment devices, or other similar modifications, where the total cost or value of such modifications exceeds (1) \$500.00 for domestic, stock or other water withdrawal facilities withdrawing less than 5,000 gallons per day, or (2) \$2500.00 for all other facilities.

(8) "Qualifying withdrawal facilities" means those withdrawal facilities which in the opinion of the department constitute a reasonable development of the aquifer. A reasonable development must satisfy the following requirements:

(a) The withdrawal facilities must be constructed in accordance with chapter 18.104 RCW (Water Well Construction Act) and chapter 173-160 WAC (Minimum standards for construction and maintenance of water wells) and the water right permit provisions, if any, or the applicable state laws and the regulations of the department which were in effect at the time of construction of the facilities.

(b) The withdrawal facilities must have a depth of aquifer penetration which will allow the withdrawal of water from a reasonable or feasible pumping lift;

(c) The withdrawal facilities must be able to accommodate a reasonable variation in seasonal pumping water levels;

(d) The withdrawal facilities, including the pumping facilities, must be properly sized to the ability of the aquifer to produce water. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-030, filed 5/29/85.]

**WAC 173-150-040 Reasonable or feasible pumping lift.** For the purposes of this chapter, reasonable or feasible pumping lift shall be determined by the department taking into account the following factors, among others:

(1) The geohydraulic characteristics of the aquifer;

(2) The state of construction technology of water withdrawal facilities;

(3) Historic considerations in regards to the construction, maintenance and use of water withdrawal facilities within the vicinity;

(4) The ground water area or subarea management program for the vicinity, if one exists. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-040, filed 5/29/85.]

**WAC 173-150-050 Establishment of new rights--Interference considerations.** If the department determines that a proposed appropriation of ground water would cause a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of an existing ground water right holder or that approval of the proposed appropriation would impair any existing water rights or would otherwise be detrimental to the public welfare, the application shall be rejected. If, however, the application is to be rejected because of conflict with existing rights, and the applicant thereafter indicates that such existing rights will be acquired by the applicant by purchase, gift or condemnation under RCW 90.03.040, the department may issue an interim conditional ruling and defer final decision on the application for a reasonable period of time to be specified by the department in the interim ruling. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-050, filed 5/29/85.]

**WAC 173-150-060 Impairment of water right.** For the purposes of this chapter, a ground water right which pertains to qualifying withdrawal facilities, shall be deemed to be impaired whenever:

(1) There is an interruption or an interference in the availability of water to said facilities, or a contamination of such water, caused by the withdrawal of ground water by a junior water right holder or holders; and

(2) Significant modification is required to be made to said facilities in order to allow the senior ground water right to be exercised. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-060, filed 5/29/85.]

**WAC 173-150-070 Notification of impairment of right.** Any senior ground water right holder who believes that his water right has been impaired may notify the department of such impairment and request the assistance of the department to protect the availability of water to his qualifying withdrawal facilities. Such notification and request for assistance must be in writing and must contain the following information:

(1) Name, address and signature of the senior water right holder;

(2) Description of the water right, including the water right number if one exists; the quantities of water permitted and the quantities of water historically withdrawn; the priority date of the water right; the location of the withdrawal facilities; a description of the withdrawal facilities including well depth, casing, pump size and depth and historic water levels, and any recent changes made to the withdrawal facilities or the use of such facilities, especially in relation to WAC 173-150-030(8); the name of the water well contractor and a copy of the water well report of the construction of the withdrawal facilities, if available;

(3) Description of the alleged impairment of the senior water right, the date of the beginning of impairment, the degree of impairment and any steps taken by the senior water right holder to alleviate the impairment;

(4) Location and description of the junior water withdrawal facilities together with the name of the user thereof, if known, which in the opinion of the senior water right holder are the cause of the impairment;

(5) Any other pertinent information which may reasonably be required by the department. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-070, filed 5/29/85.]

**WAC 173-150-080 Procedures for correction of impairment.** Upon notification to the department of the impairment of a ground water right as provided in WAC 173-150-070 or on the department's own motion, the department may, when appropriate, notify the water right holders of the alleged impairment and of its intention to make investigations concerning the matter. The department may conduct aquifer or pump tests and make investigations of the withdrawal works, geology, hydrology, water quality, historic water use or other factors which may influence the local aquifers, and may make a written report of its findings. If it is determined that ground water withdrawals by a junior water right holder or holders have caused the impairment, the department may, through regulatory orders, take one or more of the following actions:

(1) Bar or regulate the withdrawals of the junior appropriator(s) in a fashion which will preclude future impairment of the senior right;

(2) Bar or regulate the ground water withdrawals of the most junior water right holders in order of priority of right if the aggregate withdrawals exceed the maximum amount set by the department for the area, subarea or zone pursuant to the procedures of RCW 90.44.180;

(3) Require the well owner(s), including the senior water right holder, to rehabilitate or abandon the well(s)

in accordance with chapter 173-160 WAC in the case of impairment caused by the failure of wells to meet the well construction standards or the requirements of water right permit or certificate provisions, if any;

(4) Rescind authorizations for additional junior withdrawal facilities and/or reduce the authorized withdrawal rates, as appropriate, where the department finds that an appropriation by a junior right holder is the cause of the impairment and where the said junior ground water right holder has not yet completed construction of the authorized withdrawal facilities. The department shall include a provision concerning the possibility of such rescissions as a condition on ground water permits with multiple points of withdrawal. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-080, filed 5/29/85.]

**WAC 173-150-090 Voluntary agreements.** (1) Notwithstanding the provisions of WAC 173-150-080, should the senior and junior water right holders reach a voluntary agreement which satisfies the concerns stated in the notification of impairment, the department, if it determines that the public interest is fully protected thereby, shall not regulate the withdrawals by the junior water right holder under this regulation.

(2) If such an agreement includes provisions for the delivery of water from another water withdrawal facility to the holder of the senior water right, said agreement shall not take effect until all requirements of RCW 90.44.100 are satisfied or, if a new right to withdraw water is required to be established, a permit is issued pursuant to RCW 90.44.050. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-090, filed 5/29/85.]

**WAC 173-150-100 Water quality.** As a general rule, an element of a ground water right is the right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities construction methods, water use or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-100, filed 5/29/85.]

**WAC 173-150-110 Saltwater intrusion and ground water contamination.** In addition to the procedures outlined in WAC 173-150-080, the department may regulate or control saltwater intrusion conditions caused by withdrawals from a freshwater aquifer or ground water contamination caused by improper well construction techniques or other causes, through other means, including artificial recharge projects, the importation of additional water from other sources, or any other means deemed by the department to be reasonable, feasible and appropriate. [Statutory Authority: Chapter 90.44 RCW.



85-12-017 (Order 84-44), § 173-150-110, filed 5/29/85.]

**WAC 173-150-120 Applicability.** The provisions of this chapter shall apply to all ground water rights and ground water users under state jurisdiction, except that WAC 173-150-080 shall apply only to permits issued or other ground water rights established subsequent to the effective date of this chapter, or to withdrawal facilities which are the subject of an application for change of water right filed pursuant to RCW 90.44.100 subsequent to the effective date of this chapter. Cases of impairment caused by facilities or ground water rights which are not subject to this chapter shall be subject to existing state laws and regulations. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-120, filed 5/29/85.]

**WAC 173-150-130 Appeals.** (1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.

(2) All final written decisions of the department pertaining to permits, regulatory orders, and related decisions pursuant to this chapter shall be subject to review by the pollution control hearings board under chapter 43.21B RCW. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-130, filed 5/29/85.]

**WAC 173-150-140 Existing laws and regulations not affected.** Nothing in this chapter shall be construed to in any manner limit the authority of the department to administer and enforce the existing water resources laws of the state, including but not limited to chapters 18.104, 90.03, 90.36, 90.44, 90.48 and 90.54 RCW, and regulations promulgated thereunder. [Statutory Authority: Chapter 90.44 RCW. 85-12-017 (Order 84-44), § 173-150-140, filed 5/29/85.]

## Chapter 173-154 WAC

### PROTECTION OF UPPER AQUIFER ZONES

#### WAC

173-154-010	Background.
173-154-020	Purpose.
173-154-030	Authority.
173-154-040	Definitions.
173-154-050	Protection of upper aquifer zones.
173-154-060	Inspections and tests.
173-154-070	Rehabilitation of withdrawal facilities.
173-154-080	Deepening of withdrawal facilities.
173-154-090	Applicability.
173-154-100	Appeals.
173-154-110	Existing laws and regulations not affected.

**WAC 173-154-010 Background.** In many parts of the state ground water aquifers exist at various depths below land surface. Such aquifers or groups of such aquifers may demonstrate a natural hydraulic separation to a significant degree over local or regional areas as evidenced, in part, by differing hydraulic heads and variable responses to pumping stress. The upper aquifer or upper aquifer zone often will not yield water in sufficient

or sustainable quantities for uses which require a large volume of water. Therefore, they have often been traditionally used for domestic water supplies, stockwatering and other uses that require only minimal water supplies and for which it is not cost effective to tap deeper aquifers. Further, the uppermost aquifers also commonly contribute to spring and stream flows. In some cases, the withdrawal of water from the lower aquifers causes the depletion of the upper aquifers through cascading waters or simultaneous withdrawals from both upper and lower aquifers, and in such cases, poor quality waters from one zone can also contaminate a different aquifer zone. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-010, filed 5/29/85.]

**WAC 173-154-020 Purpose.** The purpose of this chapter is to establish and set forth the policies and procedures of the department of ecology in regard to the protection of the occurrence and availability of ground water within the upper aquifers or upper aquifer zones where there are multiple aquifer systems. Consistent therewith, the department shall manage the state's ground water resources in a manner that protects, to the extent practicable, the upper aquifers of multiple aquifer systems from depletions, excessive water level declines or reductions in water quality, and which recognizes that the highest and best use of the waters of limited capacity aquifers may be for domestic, stockwater and other similar uses and for the preservation of spring and stream flows. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-020, filed 5/29/85.]

**WAC 173-154-030 Authority.** This chapter is promulgated by the department of ecology pursuant to chapters 18.104, 43.21A, 90.44 and 90.54 RCW. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-030, filed 5/29/85.]

**WAC 173-154-040 Definitions.** For the purposes of this chapter the following definitions shall apply:

(1) "Department" means the Washington state department of ecology.

(2) "Ground water right" means an authorization to use ground water established pursuant to chapter 90.44 RCW, state common or statutory law existing prior to the enactment of chapter 90.44 RCW, or federal law.

(3) "Withdrawal facilities" means and includes any well, infiltration trench or other excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, together with the casing, screen, pump, pump column, motor and related equipment which is used for the withdrawal of ground water.

(4) "Aquifer" means any geologic formation that will yield water to a well or other withdrawal facilities in sufficient quantity for beneficial use.

(5) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water, whatever may be the geological formation or structure in

which such water stands or flows, percolates or otherwise moves.

(6) "Multiple aquifer system" means any geologic formation(s) which contains distinct aquifers at different depths that exhibit a significant degree of local or regional hydraulic separation.

(7) "Upper aquifer zone" means all aquifers within a multiple aquifer system lying between the land surface and a depth or geologic formation, as determined by the department consistent with the purposes of this chapter, or as set forth in the ground water subarea management program for the area, if one exists.

(8) "Lower aquifer zone" means any aquifers occurring at a depth below the upper aquifer zone, as determined by the department, or as set forth in the ground water subarea management program for the area, if one exists.

(9) "Cascading waters" means any ground waters which fall or flow through a well or other withdrawal facilities, from one ground water aquifer to another.

(10) "Rehabilitation of withdrawal facilities" means the work necessary to reconstruct or modify existing withdrawal facilities in order to bring them into conformance with applicable laws, regulations, permit or certificate provisions and orders of the department. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-040, filed 5/29/85.]

**WAC 173-154-050 Protection of upper aquifer zones.** In any multiple aquifer system, where the department determines that the uppermost aquifers or upper aquifer zone will not sustain large volume ground water withdrawals without exceeding the safe sustaining yield or causing (1) adverse effects to existing water rights, (2) an unreasonable drop in the water table, (3) permanent damage to the aquifer through depletion of the aquifer or zone, (4) an impairment of the beneficial use of the ground waters arising from a modification of the water quality, or (5) depletions of spring or stream flows, the department shall require new or additional large volume withdrawals to be restricted to a lower aquifer zone. Permits for withdrawals of water from such lower aquifer zones may specify an approved manner of construction of the withdrawal facilities, including but not limited to, a minimum and maximum well depth, specific casing and sealing requirements, and the construction of monitoring wells for the purpose of periodic measurements in areas where the aquifers cannot be readily monitored through the use of existing wells. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-050, filed 5/29/85.]

**WAC 173-154-060 Inspections and tests.** The department may require inspections and/or tests of withdrawal facilities prior to their use in order to ensure compliance with any construction requirements imposed by the department pursuant to this chapter. Such inspections and tests shall be performed at the expense of the holder of the permit, except that there shall be no

charge for any portions of such tests or inspections which are performed by department employees. If it is the determination of the department that the facilities are not properly constructed or that the facilities may adversely affect the upper aquifers or upper aquifer zone, the department may (1) require further construction and/or testing of the facilities, or (2) require abandonment of the facilities in accordance with chapter 173-160 WAC, or (3) revoke the permit. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-060, filed 5/29/85.]

**WAC 173-154-070 Rehabilitation of withdrawal facilities.** The department may require the rehabilitation of existing withdrawal facilities if it finds that the facilities were not constructed or are presently not in accordance with the permit provisions, if any, or the applicable laws and regulations of the department which were in effect at the time of construction of the facilities, and that the withdrawal of waters from such facilities will adversely affect the upper aquifers or upper aquifer zone. The department shall allow a reasonable period for completion of such rehabilitation. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-070, filed 5/29/85.]

**WAC 173-154-080 Deepening of withdrawal facilities.** At any time that the holder of a valid ground water right proposes to deepen a withdrawal facility, the modification of the facility shall be made in such a manner as to preclude the occurrence of cascading waters. Such a facility shall not be deepened to tap a different body of public ground water, or a different aquifer zone where such zones have been determined by the department, without further appropriate authorization from the department. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-080, filed 5/29/85.]

**WAC 173-154-090 Applicability.** The provisions of this chapter shall apply to all ground water rights under state jurisdiction, except that WAC 173-154-050 and 173-154-060 shall apply only to permits issued or other ground water rights established subsequent to the effective date of this chapter and to withdrawal facilities which are the subject of an application for change of water right filed pursuant to RCW 90.44.100 subsequent to the effective date of this chapter. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-090, filed 5/29/85.]

**WAC 173-154-100 Appeals.** (1) Regulatory orders issued by the department pursuant to this chapter shall be issued in accordance with RCW 43.27A.190.

(2) All final written decisions of the department pertaining to permits, regulatory orders, and related decisions pursuant to this chapter shall be subject to review by the pollution control hearings board under chapter 43.21B RCW. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-100, filed 5/29/85.]

**WAC 173-154-110 Existing laws and regulations not affected.** Nothing in this chapter shall be construed to limit in any manner the authority of the department to administer and enforce the existing water resources laws of the state, including but not limited to chapters 18.104, 90.03, 90.36, 90.44, 90.48 and 90.54 RCW, and regulations promulgated thereunder. [Statutory Authority: Chapters 90.44 and 90.54 RCW. 85-12-018 (Order 84-45), § 173-154-110, filed 5/29/85.]

### Chapter 173-216 WAC

#### STATE WASTE DISCHARGE PERMIT PROGRAM

##### WAC

173-216-010	Purpose.
173-216-020	Policy enunciated.
173-216-050	Discharges not subject to permits.

**WAC 173-216-010 Purpose.** (1) The purpose of this chapter is to implement a state permit program, applicable to the discharge of waste materials from industrial, commercial, and municipal operations into ground and surface waters of the state and into municipal sewerage systems. However, this regulation excludes the point source discharge of pollutants into navigable waters of the state which is regulated by National Pollutant Discharge Elimination System (NPDES) permit program, chapter 173-220 WAC. This regulation also excludes the injection of fluids through wells which is regulated by underground injection control program, chapter 173-218 WAC.

(2) Permits issued under this chapter are designed to satisfy the requirement for discharge permits under the Water Pollution Control Act, chapter 90.48 RCW and to implement applicable pretreatment standards under section 307 of the Federal Water Pollution Control Act (33 U.S.C. § 1241 et seq.). [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-216-010, filed 2/29/84. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-010, filed 11/18/83. Formerly chapter 372-24 WAC.]

**WAC 173-216-020 Policy enunciated.** (1) It shall be the policy of the department in carrying out the requirements of this chapter, to maintain the highest possible standards to ensure the purity of all waters of the state and to require the use of all known, available and reasonable methods to prevent and control the discharge of wastes into the waters of the state. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of public interest will be served.

(2) Consistent with this policy, the disposal of waste materials from industrial, commercial, or municipal sources into wells will not be authorized by the department.

(3) Consistent with this policy, the discharge of waste materials into municipal sewerage systems which would interfere with, pass through, or otherwise be incompatible with such systems or which would contaminate the sludge will not be permitted.

(4) Consistent with this policy, the department will act to prevent the disposal of wastes that present a risk to human health, including the potential, chronic effects of lifetime exposure to waste materials. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-216-020, filed 2/29/84. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-020, filed 11/18/83.]

**WAC 173-216-050 Discharges not subject to permits.** (1) The following discharges are not subject to permits under this chapter:

(a) Discharges to municipal sewerage systems of domestic wastewater from residential, commercial, or industrial structures.

(b) Any industrial or commercial discharge to a municipal sewerage system for which authority to issue permits has been granted to the municipality under RCW 90.48.165.

(c) Any industrial or commercial discharge to a municipal sewerage system operating under a local pretreatment program approved under section 307 of FWPCA, so long as the person undertaking such discharge complies with the applicable requirements of the pretreatment program. In the event of noncompliance, this exemption no longer applies and the discharger is immediately subject to enforcement action under chapter 90.48 RCW for discharging without a waste discharge permit.

(d) Discharges to municipal sewerage systems of wastes from industrial or commercial sources whose wastewater is similar in character and strength to normal domestic wastewater: *Provided*, That such discharges do not have the potential to adversely affect performance of the system. Examples of this type of discharge sources may include hotels, restaurants, laundries and food preparation establishments.

(e) Discharges for which an NPDES permit from the department is required pursuant to chapter 173-220 WAC.

(f) Discharges of domestic wastewater from a septic tank with subsurface sewage treatment and disposal and an ultimate design capacity less than or equal to fourteen thousand five hundred gallons per day. These systems are governed by on-site sewage disposal systems, chapter 248-96 WAC which is administered by the Washington state department of social and health services.

(g) Discharges of domestic wastewater from a mechanical treatment system or lagoon followed by subsurface disposal with an ultimate design capacity less than or equal to three thousand five hundred gallons per day. These systems are governed by on-site sewage disposal systems, chapter 248-96 WAC which is administered by the Washington state department of social and health services.

(2) A permit is required for any source subject to pretreatment standards promulgated under section 307 of FWPCA, unless exempted under subsections (1)(b) and (1)(c) of this section.

(3) These exemptions shall not relieve any discharger from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, nor the requirement to obtain approval of plans and reports for the construction of wastewater facilities. Nothing herein shall limit the authority of the department to take enforcement action for any unlawful discharge of waste materials or other violations of the Water Pollution Control Act, chapter 90.48 RCW. [Statutory Authority: Chapter 90.48 RCW. 85-04-006 (Order 84-51), § 173-216-050, filed 1/25/85. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-050, filed 11/18/83.]

**Chapter 173-218 WAC**  
**UNDERGROUND INJECTION CONTROL**  
**PROGRAM**

**WAC**

173-218-010	Purpose.
173-218-020	Policy enunciated.
173-218-030	Definitions.
173-218-040	Authorization required.
173-218-050	Class I injection wells.
173-218-060	Class II injection wells.
173-218-070	Class III injection wells.
173-218-080	Class IV injection wells.
173-218-090	Class V injection wells.
173-218-100	Permit terms and conditions.
173-218-110	Enforcement.

**WAC 173-218-010 Purpose.** (1) The purpose of this chapter is to set forth the procedures and practices applicable to the injection of fluids through wells.

(2) Permits issued in accordance with the provisions of this chapter are designed:

(a) To satisfy the intent and requirements of Part C of the Federal Safe Drinking Water Act (SDWA) 42 U.S.C. § 300h et seq. as authorized by RCW 43.21A-.445 and of the Water Pollution Control Act, chapter 90.48 RCW; and

(b) To preserve and protect ground waters, including underground sources of drinking water, for existing and future beneficial uses. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-010, filed 2/29/84.]

**WAC 173-218-020 Policy enunciated.** (1) It shall be the policy of the department of ecology in carrying out the purposes of this chapter:

(a) To maintain the highest possible standards to prevent the injection of fluids that may endanger ground waters which are obtainable for beneficial uses or which contain fewer than 10,000 mg/L of total dissolved solids;

(b) To require the use of all known, available, and reasonable methods to prevent and control the discharge of fluids and waste fluids into the waters of the state;

(c) To protect public health and welfare through preservation and protection of the quality of the state's ground waters.

(2) Consistent with this policy:

(a) The disposal of waste fluids from industrial, commercial, or municipal sources into wells will not be authorized by the department, except that existing operations are authorized providing these operations satisfy the standards and requirements of this chapter;

(b) The department will act to prevent the disposal of waste fluids that present a risk to human health, including the potential, chronic effects of lifetime exposure to waste fluids. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-020, filed 2/29/84.]

**WAC 173-218-030 Definitions.** (1) "Beneficial uses" shall include, among others, uses for domestic water, irrigation, fish, shellfish, game, and other aquatic life, municipal, recreation, industrial water, generation of electric power, and navigation.

(2) "Class I injection well" means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within 1/4-mile of the well bore, an USDW.

(3) "Class II injection well" means a well used to inject fluids:

(a) Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants which are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

(b) For enhanced recovery of oil or natural gas; or

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(4) "Class III injection well" means a well used for extraction of minerals, including but not limited to the injection of fluids for:

(a) In-situ production of uranium or other metals that have not been conventionally mined;

(b) Mining of sulfur by Frasch process; or

(c) Solution mining of salts or potash.

(5) "Class IV injection well" means a well used to inject dangerous or radioactive waste fluids.

(6) "Class V injection well" means all injection wells not included in Classes I, II, III, or IV.

(7) "Dangerous waste" means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides or any residues or containers of such substances, which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such 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 (Hazardous Waste Disposal Act, chapter 70.105 RCW).

(8) "Department" means department of ecology.

(9) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

(10) "Ground waters" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands or flows, percolates, or otherwise moves (Regulation of public ground waters, chapter 90.44 RCW).

(11) "Injection well" means a "well" that is used for the subsurface emplacement of fluids.

(12) "New injection well" means an injection well that is proposed subsequent to the effective date of this chapter.

(13) "Person" includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(14) "Radioactive waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 Code of Federal Regulations Part 20, Appendix B, Table II, Column 2.

(15) "SDWA" means Part C of the Federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq.

(16) "Underground source of drinking water (USDW)" means ground waters which contain fewer than 10,000 mg/L of total dissolved solids or which are obtainable for beneficial uses.

(17) "Waste fluid" means any discarded, abandoned, unwanted, or unrecovered fluid(s), except the following are not waste fluids for the purposes of this chapter:

(a) Discharges into the ground or ground water of return flow, unaltered except for temperature, from a ground water heat pump used for space heating or cooling: *Provided*, That such discharges do not have significant potential, either individually or collectively, to affect ground water quality or beneficial uses;

(b) Discharges of stormwater that are not contaminated or potentially contaminated by industrial or commercial sources.

(18) "Well" means a bored, drilled or driven shaft, or dug hole whose depth is greater than the largest surface dimension. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-030, filed 2/29/84.]

**WAC 173-218-040 Authorization required.** No fluids may be injected through wells except as authorized pursuant to this chapter. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-040, filed 2/29/84.]

**WAC 173-218-050 Class I injection wells.** (1) New Class I injection wells are prohibited.

(2) All persons operating an existing Class I injection well operation must apply to the department for approval to operate within one year of the effective date of this chapter.

(3) The department will accept, process, and act upon the application in accordance with applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982). [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-050, filed 2/29/84.]

**WAC 173-218-060 Class II injection wells.** (1) Any person, who proposes to conduct or is conducting a Class II injection well operation, as defined in WAC 173-218-030 (3)(a), must notify the oil and gas conservation committee (OGCC) in accordance with the provisions of general rules, chapter 344-12 WAC.

(2) The department shall perform review, evaluation, and approval in accordance with the provisions of general rules, chapter 344-12 WAC.

(3) The department shall process a Class II injection well application, as defined in WAC 173-218-030 (3)(a), in accordance with applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982).

(4) At present, there appears to be no reasonable likelihood that approval will be sought for a Class II injection well for either enhanced recovery of oil or natural gas or for storage of liquid hydrocarbons; therefore, Class II injection wells as defined in 173-218-030 (3)(b) and (3)(c) are not authorized. If it appears likely that approval will be sought for either of these types of injection wells, these regulations will be amended to include an appropriate regulatory program. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-060, filed 2/29/84.]

**WAC 173-218-070 Class III injection wells.** At present, there appears to be no reasonable likelihood that approval will be sought for a Class III injection well; therefore, Class III injection wells are not authorized. If it appears likely that approval will be sought for a Class III injection well, these regulations will be amended to include an appropriate regulatory program. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-070, filed 2/29/84.]

**WAC 173-218-080 Class IV injection wells.** Class IV injection wells are prohibited regardless of proximity to USDW. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-080, filed 2/29/84.]

**WAC 173-218-090 Class V injection wells.** (1) All new Class V injection wells that inject industrial, municipal, or commercial waste fluids into or above an USDW are prohibited.

(2) All persons operating an existing Class V injection well, that inject industrial, commercial, or municipal waste fluids into or above an USDW, must apply to the department for approval to operate within one year of the effective date of this regulation. The department will accept, process, and act upon the application in accordance with the procedures and practices of the State waste discharge permit program, chapter 173-216 WAC.

(3) All other Class V injection well owners and operators must notify the department of the location of injection wells within one year of approval of the state underground injection control program by the United States Environmental Protection Agency. The notification shall be on a form as prescribed by the department and will include the information needed to satisfy the requirements of 40 Code of Federal Regulations Part 146.52. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-090, filed 2/29/84.]

**WAC 173-218-100 Permit terms and conditions.**

(1) Any permit issued by the department shall specify conditions necessary to prevent and control injection of fluids into the waters of the state, including the following, whenever applicable:

(a) All known, available, and reasonable methods of prevention, control, and treatment;

(b) Applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982); and

(c) Any conditions necessary to preserve and protect USDW.

(2) Any injection well that causes or allows the movement of fluid into an USDW that may result in a violation of any primary drinking water standard under 40 Code of Federal Regulations Part 141 or that may otherwise adversely affect the beneficial use of an USDW is prohibited. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-100, filed 2/29/84.]

**WAC 173-218-110 Enforcement.** (1) For violations of this chapter, the department shall have the remedies available in the Water Pollution Control Act, chapter 90.48 RCW, and all other applicable statutes.

(2) All injection well operations not operated in accordance with the provisions of this chapter, that cause or tend to cause entry of fluids into the waters of the state as a result of a violation of these provisions, constitutes pollution of the waters of the state in violation of RCW 90.48.080. [Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-110, filed 2/29/84.]

**Chapter 173-220 WAC**

**NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM PERMIT PROGRAM**

**WAC**

173-220-030	Definitions.
173-220-150	Other terms and conditions.
173-220-210	Monitoring, recording and reporting.
173-220-220	Control of disposal of pollutants into wells.

**WAC 173-220-030 Definitions.** For purposes of this chapter, the following definitions shall be applicable:

(1) "Department" means department of ecology.

(2) "Director" means the director of the department of ecology or his authorized representative.

(3) "Administrator" means the administrator of the United States Environmental Protection Agency.

(4) "Regional administrator" means the regional administrator of Region X of the Environmental Protection Agency (EPA).

(5) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(6) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

(7) "Navigable waters of the state" means all navigable waters as defined in section 502 of the FWPCA within the boundaries of the state such as lakes, rivers, ponds, streams, inland waters, ocean, bays, estuaries, sounds and inlets.

(8) "Person" includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(9) "Discharge of pollutant" and the term "discharge of pollutants" each means (a) any addition of any pollutant or combination of pollutants to navigable waters of the state from any point source, (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source, other than a vessel or other floating craft which is being used as a means of transportation.

(10) "Major discharger" means any discharger appearing on the list of major dischargers appearing in the annual state-EPA agreement.

(11) "Combined waste treatment facility" means any publicly owned waste treatment facility in which the maximum monthly average influent from any one industrial category, or categories producing similar wastes, constitutes over eighty-five percent of the design load

for biochemical oxygen demand or suspended solids. Each single industrial category must contribute a minimum of ten percent of the applicable load. [Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-030, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-030, filed 12/1/82; Order DE 74-1, § 173-220-030, filed 2/15/74.]

**WAC 173-220-150 Other terms and conditions. (1)**

In addition to the requirements of WAC 173-220-130 and 173-220-140, each issued permit shall require that:

(a) All discharges authorized by the permit shall be consistent with the terms and conditions of the permit; any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants must be reported to the department by submission of a new application or supplement thereto; or, if such discharge does not violate effluent limitations specified in the permit, by submission to the department of notice of such new or increased discharges of pollutants; any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

(b) The permit may be modified, suspended or revoked in whole or in part during its terms for cause including, but not limited to, the following:

(i) Violation of any term or condition of the permit;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(c) The permittee shall allow the department or its authorized representative upon the presentation of credentials and at reasonable times:

(i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit subject to any access restrictions due to the nature of the project;

(ii) To have access to and copy at reasonable cost any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; or

(iv) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the department of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the FWPCA if such source were discharging pollutants;

(ii) Except as to such categories and classes of point sources or discharges specified by the department, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the FWPCA if such source were discharging pollutants;

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on:

(I) The quality and quantity of effluent to be introduced into such treatment works; and

(II) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(e) The permittee shall at all times properly operate and maintain any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the permittee shall not permit flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

(f) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the FWPCA for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the department shall revise or modify the permit in accordance with the toxic effluent standard of prohibition and so notify the permittee.

(2) Every permit shall be conditioned to insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308 of the FWPCA.

(3) Permits for domestic wastewater facilities shall be issued only to a public entity, except in the following circumstances:

(a) Facilities existing or approved for construction with private operation on or before the effective date of this chapter, until such time as the facility is expanded;

(b) Facilities that serve a single nonresidential, industrial, or commercial establishment. Commercial/industrial complexes serving multiple owners or tenants and multiple residential dwelling facilities such as mobile home parks, apartments, and condominiums are not considered single commercial establishments for the purpose of the preceding sentence.

(c) Facilities that are owned by nonpublic entities and under contract to a public entity shall be issued a joint permit to both the owner and the public entity. [Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-150, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-150, filed 12/1/82; Order DE 74-1, § 173-220-150, filed 2/15/74.]

**WAC 173-220-210 Monitoring, recording and reporting. (1) Monitoring.**

(a) Any discharge authorized by a permit may be subject to such monitoring requirements as may be reasonably required by the department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include:

- (i) Flow (in gallons per day);
- (ii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
- (iii) Pollutants which the department finds could have a significant impact on the quality of navigable waters; and
- (iv) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring.

(b) Each effluent flow or pollutant required to be monitored pursuant to subsection (a) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

(c) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required when determined necessary by the department to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the waters of the state.

(2) Recording of monitoring activities and results. Any permit which requires monitoring of the authorized discharge shall require that:

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his permit;

(b) Any records of monitoring activities and results shall include for all samples:

- (i) The date, exact place, and time of sampling;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses; and

(c) The permittee shall be required to retain for a minimum of three years any records of monitoring activities and results including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the department or regional administrator.

(3) Reporting of monitoring results.

(a) The permittee shall periodically report (at a frequency of not less than once per year) on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a permit. In addition to the required reporting form, the department at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, by a responsible corporate officer or his duly authorized representative, if

such representative is responsible for the overall operation of the facility from which the discharge originates.

(ii) In the case of a partnership, by a general partner.

(iii) In the case of a sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee. [Statutory Authority: Chapter 90.48 RCW, 84-11-024 (Order DE 84-19), § 173-220-210, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-210, filed 12/1/82; Order DE 74-1, § 173-220-210, filed 2/15/74.]

**WAC 173-220-220 Control of disposal of pollutants into wells.** The disposal of pollutants into wells is regulated by the Underground Injection Control program, chapter 173-218 WAC. [Statutory Authority: Chapter 90.48 RCW, 84-11-024 (Order DE 84-19), § 173-220-220, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-220, filed 12/1/82; Order DE 74-1, § 173-220-220, filed 2/15/74.]

Chapter 173-303 WAC

DANGEROUS WASTE REGULATIONS

WAC

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- 173-303-016 Identifying solid waste.
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173-303-808	Demonstrations for dangerous waste land treatment final facility permits.
173-303-809	Demonstration permit for new chemical, physical, or biological treatment processes.
173-303-810	General permit conditions.
173-303-815	(Reserved.)
173-303-820	(Reserved.)
173-303-825	(Reserved.)
173-303-830	Permit changes.
173-303-840	Procedures for decision making.
173-303-910	Petitions.
173-303-950	Violations and enforcement.
173-303-9901	Flow chart for designating dangerous wastes.

173-303-9903	Discarded chemical products list.
173-303-9904	Dangerous waste sources list.
173-303-9905	Dangerous waste constituents list.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-303-275	Transfer facilities (or collection facilities). [Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-275, filed 2/10/82.] Repealed by 84-14-031 (Order DE 84-22), filed 6/27/84. Statutory Authority: Chapter 70.105 RCW.
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**WAC 173-303-010 Purpose.** This regulation implements chapter 70.105 RCW, the Hazardous Waste Disposal Act of 1976 as amended in 1980 and 1983, and implements, in part, chapter 70.105A RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act, which the legislature has empowered the department to implement. The purposes of this regulation are to:

(1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;

(2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;

(3) Provide the form and rules necessary to establish a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes;

(4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;

(5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;

(6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and

(7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-010, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-010, filed 2/10/82. Formerly WAC 173-302-010.]

**WAC 173-303-016 Identifying solid waste.** (1) Purpose and applicability.

(a) The purpose of this section is to identify those substances (including materials, garbage, refuse, sludges, byproducts, and discarded commodities) that are and are not solid wastes.

(b) Subsection (2) of this section is applicable to all substances except:

(i) Those substances which are designated as hazardous wastes under 40 CFR Part 261 Subpart D, provided that, subsection (2) of this section is applicable to such hazardous wastes if they are subject only to the small quantity generator requirements of 40 CFR 261.5; and

(ii) Those substances which are sludges (as defined in WAC 173-303-040(81)) and are designated as hazardous wastes under 40 CFR Part 261, provided that, subsection (2) of this section is applicable to such hazardous wastes if they are subject only to the small quantity generator requirements of 40 CFR 261.5.

(c) All substances to which subsection (2) of this section is not applicable are solid wastes for the purposes of this chapter. Certain solid wastes are excluded from the requirements of this chapter by WAC 173-303-071. Unless excluded, all solid wastes are subject to the applicable designation, generator, transporter, and management standards of this chapter.

(2) Any substance which meets the definition for solid waste in WAC 173-303-040(82) and which is not specifically exempted by (a) of this subsection is solid waste for the purposes of this chapter.

(a) Except as provided in (b) of this subsection, the following substances are not solid waste:

(i) Substances used or reused as ingredients in industrial processes to make a product, provided that distinct components of the substance are not recovered as separate end products;

(ii) Substances used or reused as substitutes for raw materials in processes using raw materials as the principal feedstocks;

(iii) Substances used or reused in particular functions or applications as substitutes for commercial products; and

(iv) Substances used or reused within the original process from which they were generated (i.e., "closed loop" use or reuse).

(b) Any substance listed in (a) of this subsection, is a solid waste if the department determines, on a case-by-case basis, that:

(i) It is being accumulated without sufficient amounts being used or reused, (as this activity is described in WAC 173-303-121);

(ii) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment;

(iii) It is being used or reused in a manner which constitutes disposal and results in the substance being directly placed in or released to the environment; or

(iv) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such solid waste will be listed in this subsection.

(c) Certain solid wastes are excluded from the requirements of this chapter. They are listed in WAC 173-303-071.

(d) Any substance that is a solid waste and that is not excluded or exempted elsewhere in this regulation is subject to all applicable generator, transporter, and management requirements of this chapter.

(e) Some solid wastes identified in this subsection may be involved in exempted recycling processes. These exempted processes are specified in WAC 173-303-017. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-016, filed 6/27/84.]

**WAC 173-303-017 Recycling processes involving solid waste.** (1) This section is not applicable to any solid wastes which are designated as hazardous waste under 40 CFR Part 261 Subpart D, or which are sludges designated as hazardous waste under 40 CFR Part 261, unless such hazardous wastes are subject only to the small quantity generator requirements of 40 CFR 261.5. This section is applicable only to processes which legitimately and beneficially recycle a substance identified as a solid waste in accordance with WAC 173-303-016(2). Certain recycling processes, as specified in this section, are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the requirements of this chapter including, but not limited to, the designation requirements of WAC 173-303-070 through 173-303-103 and, if designated as dangerous waste, the recycling requirements of WAC 173-303-120.

(2) Except as provided in subsection (3) of this section, the recycling processes listed in this subsection and the generation, transport, accumulation and storage prior to these recycling processes are exempt from the requirements of this chapter, except that this exemption does not apply to the use of piles or surface impoundments for the recycling processes listed in this subsection or for treatment, accumulation or storage in piles or surface impoundments prior to these recycling processes. The recycling processes are:

(a) Reclamation by the person who generates the solid waste, and reclamation by another person who subsequently uses the materials reclaimed from a solid waste in his own operation (except that if such operation involves only the sale or resale of the reclaimed materials, then the process is not exempt). This exemption does not apply to the reclamation of spent lead-acid batteries;

(b) Recovery of precious metals from solid waste. For the purposes of this exemption, precious metals are gold, silver, iridium, palladium, platinum, rhodium, ruthenium, or any combination of these;

(c) Recycling of oil, gasoline, jet fuel or diesel, and reclamation of oil, gasoline, jet fuel or diesel generated from the cleaning of tanks used only for storage, except that this exemption does not apply to oil, gasoline, jet fuel or diesel mixed with any dangerous waste, unless such dangerous waste is only oil, gasoline, jet fuel or diesel designated by the characteristics described in WAC 173-303-090;

(d) Regeneration of used batteries by a battery manufacturer (e.g., addition of new electrolyte, replacement of defective cells, etc.);

(e) Burning for energy recovery in an industrial furnace or a boiler (as defined in WAC 173-303-040 (43) and (8)) by the person who generates the solid waste to be burned, except that this exemption does not apply to the accumulation, storage, or treatment of the solid waste prior to burning, nor to the use of a solid waste to produce a fuel; and

(f) Reclamation performed pursuant to batch tolling agreements. For the purposes of this exemption, a batch tolling agreement is a contractual arrangement, between

a reclaimer and a person producing a solid waste, which contains the following conditions:

(i)(A) The person generating the solid waste retains ownership of it; or

(B) In cases where the person generating the solid waste only rents or leases, but does not buy, materials reclaimed from the solid waste, the reclaimer retains ownership;

(ii) Within a period of two hundred seventy days after the date on which the quantity of solid waste first exceeds four hundred pounds, the solid waste is transferred to the reclaimer, reclamation is conducted, and the reclaimed portion is returned to the user;

(iii) The solid waste is not commingled with any other person's solid waste or material prior to or during reclamation, except that commingling is allowed if such commingling involves only solid wastes or materials that have, or prior to becoming solid wastes had, the same chemical names or similar product specifications. For example, Stoddard solvent from several persons may be commingled, whereas waste acetone from one person and waste toluene from another person may not be commingled;

(iv) The reclaimer is paid according to the amount of the reclaimed portion returned to the user; and

(v) The reclaimer is paid more as the amount of the reclaimed portion returned to the user increases.

The person generating the solid waste must maintain and, at any reasonable place and time, provide to the department records that establish the date(s) on which his solid waste was first generated and which show that he meets the above batch-tolling conditions.

(3) Any recycling process listed in subsection (2) of this section is not exempt if the department determines, on a case-by-case basis, that:

(a) The solid waste used in the recycling process is being accumulated without sufficient amounts being recycled (as this activity is described in WAC 173-303-121);

(b) The solid waste used in the recycling process, or the recycling process itself, poses a threat to public health or the environment; or

(c) The recycling process constitutes disposal and results in directly releasing the solid waste to the environment. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-017, filed 6/27/84.]

**WAC 173-303-020 Applicability.** This chapter 173-303 WAC shall apply to all persons who handle dangerous wastes including, but not limited to:

- (1) Generators;
- (2) Transporters;
- (3) Owners and operators of dangerous waste recycling, transfer, storage, treatment, and disposal facilities; and
- (4) The operator of the state's extremely hazardous waste management facility. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-020, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order

DE 81-33), § 173-303-020, filed 2/10/82. Formerly WAC 173-302-020.]

**WAC 173-303-030 Abbreviations.** The following abbreviations are used in this regulation.

- (1) ASTM – American Society for Testing Materials
- (2) APHA – American Public Health Association
- (3) CDC – Center for Disease Control
- (4) CFR – Code of Federal Regulations
- (5) DOT – Department of Transportation
- (6) °C – degrees Celsius
- (7) DW – dangerous waste
- (8) DWS – drinking water standards of the Safe Drinking Water Act
- (9) EHW – extremely hazardous waste
- (10) EP – extraction procedure
- (11) EPA – Environmental Protection Agency
- (12) °F – degrees Fahrenheit
- (13) g – gram
- (14) IARC – International Agency for Research on Cancer
- (15) kg – kilogram (one thousand grams)
- (16) L – liter
- (17) lb – pound
- (18) LC<sub>50</sub> – lethal concentration 50 percent kill
- (19) LD<sub>50</sub> – lethal dose 50 percent kill
- (20) M – molar (gram molecular weights per liter of solution)
- (21) mg – milligram (one thousandth of a gram)
- (22) NFPA – National Fire Protection Association
- (23) NIOSH – National Institute for Occupational Safety and Health
- (24) pH – negative logarithm of the hydrogen ion concentration
- (25) POTW – publicly owned treatment works
- (26) ppm – parts per million (weight/weight)
- (27) RCRA – Resource Conservation and Recovery Act
- (28) RCW – Revised Code of Washington
- (29) TLM<sub>96</sub> – toxic limit median, 96 hours
- (30) TSD facility – transfer, treatment, storage, or disposal facility
- (31) UBC – Uniform Building Code
- (32) UFC – Uniform Fire Code
- (33) USCG – United States Coast Guard

- (34) USGS - United States Geological Survey
- (35) WAC - Washington Administrative Code
- (36) % - percent
- (37) # - number

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-030, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-030, filed 2/10/82. Formerly WAC 173-302-030.]

**WAC 173-303-040 Definitions.** When used in this regulation, the following terms have the meanings given below.

(1) "Active portion" means that portion of a facility which is not a closed portion (subsection (11) of this section), and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

(a) The effective date of the waste's designation by 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

(2) "Administrator" means the administrator of the environmental protection agency or his designee.

(3) "Aquatic LC<sub>50</sub>" (same as TLM<sub>96</sub>) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as *Lepomis macrochirus* (bluegill) or *Pimephales promelas* (flathead minnow), or cold water species such as salmonidae, when using the testing method described in WAC 173-303-110.

(4) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.

(6) "Batch" means any waste which is generated less frequently than once a month.

(7) "Berm" means the shoulder of a dike.

(8) "Boiler" means an enclosed device using controlled flame combustion and having the following design characteristics:

(a) The unit has provision for heat recovery; and

(b) The combustion chamber and heat recovery section are of integral design. The combustion chamber and heat recovery sections are of integral design if formed physically into one manufactured or assembled unit. (A unit in which the furnace or combustion chamber and heat recovery section are joined by ducts or connections carrying flue gas is not integrally designed); and

(c) Significant heat recovery takes place in the combustion chamber section by radiant transfer of heat to the transfer medium.

(9) "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process,

or that is produced incidentally to the primary purpose of a production process.

(10) "Carcinogenic" means a material known to contain greater than one percent of an IARC positive or suspected, human or animal carcinogen. For inorganic carcinogens with nonbioaccumulative chronic effects, only those wastes (e.g., asbestos) which are likely to pose a respiratory carcinogenic threat shall be designated as carcinogenic dangerous wastes.

(11) "Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

(12) "Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

(13) "Compliance procedure" shall mean any proceedings instituted pursuant to the Hazardous Waste Disposal Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Disposal Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

(14) "Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

(15) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(16) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

(17) "Contract" means the written agreement signed by the department and the state operator.

(18) "Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter (including dangerous and extremely hazardous waste), while the abbreviation "DW" will refer to that part of the regulated universe which is dangerous only, and not extremely hazardous. (See also "extremely hazardous waste" and "hazardous waste" definitions.)

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

(20) "Dermal LD<sub>50</sub>" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills

half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

(21) "Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste shipment and which is authorized pursuant to this chapter or RCRA to manage dangerous waste.

(22) "Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

(23) "Director" means the director of the department of ecology.

(24) "Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment. Release includes, but is not limited to, the actions of: Spilling, leaking, pumping, pouring, emitting, dumping, emptying, depositing, placing, or injecting.

(25) "Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

(26) "Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

(27) "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

(b) Meets the definition of tank, container, transport vehicle, or vessel.

(28) "EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

(29) "Extremely hazardous waste" means those dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

(30) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" shall be used interchangeably.

(31) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

(32) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

(33) "Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

(34) "Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

(35) "Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

(36) "Ground water" means water which fills voids below the land surface and in the earth's crust.

(37) "Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

(38) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103.

(39) "Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

(40) "Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

(a) The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(41) "Incinerator" means an enclosed device using controlled flame combustion to burn or reduce dangerous waste and in which the combustion chamber (or chambers) and heat recovery section, if any, are not of integral design (see also "boiler").

(42) "Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(43) "Industrial-furnace" means any of the following devices that are integral components of manufacturing processes and use flame combustion or elevated temperature to accomplish recovery of materials or energy; cement kilns, lime kilns, aggregate kilns, phosphate kilns, blast furnaces, smelting furnaces, methane reforming furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and pulping liquor recovery furnaces. The department may decide to add devices to this list on the basis of one or more of the following factors:

(a) The device is designed and used primarily to accomplish recovery of material products;

(b) The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

(c) The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

(d) The device burns or reduces raw materials to make a material product;

(e) The device is in common industrial use to produce a material product; and

(f) Other factors, as appropriate.

(44) "Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.

(45) "Inhalation LC<sub>50</sub>" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours, kills within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

(46) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

(47) "Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805(5).

(48) "Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(49) "Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

(50) "Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

(51) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(52) "Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

(53) "Major facility" means a facility or activity classified by the department as major.

(54) "Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

(55) "Moderate risk waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090, 173-303-101, 173-303-102 or 173-303-103. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a moderate risk waste.

(56) "NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

(57) "Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

(58) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

(59) "On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, shall be considered on-site travel if: (a) The travel crosses the right of way at a perpendicular intersection; or, (b) the right of way is controlled by the property owner and is inaccessible to the public.

(60) "Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

(61) "Oral LD<sub>50</sub>" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

(62) "Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

(a) The department, pursuant to this chapter;

(b) United States EPA, pursuant to 40 CFR Part 270;

or

(c) Another state authorized by EPA, pursuant to 40 CFR Part 271.

(63) "Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

(64) "Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

(65) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(66) "Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

(67) "Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

(68) "Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

(69) "Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more benzene rings. For the purposes of this chapter, the PAH of concern for designation are only those PAH with more than three rings and less than seven rings.

(70) "Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

(71) "Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

(72) "Reclaim" means to process a solid or dangerous waste in order to recover useable products, or to regenerate the solid or dangerous waste so that it can continue to serve its original purpose. Reclamation is the process of reclaiming.

(73) "Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

(74) "Recycle" means reuse or recover a material that is, or reclaim a material from, a solid or dangerous waste.

(75) "Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

(a) January 26, 1983 for wastes regulated by 40 CFR Part 261;

(b) October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

(c) The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

(76) "Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

(77) "Reuse" means use a solid or dangerous waste without first subjecting it to recovery or reclamation.

(78) "Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

(79) "Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

(80) "Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

(81) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

(82) "Solid waste" means any solid, semi-solid, liquid or contained gaseous material, garbage, refuse, sludge, or discarded commodity resulting from industrial, commercial, mining, agricultural, or community operations or activities that is not a primary product of such operations or activities.

(83) "Spent material" means any material that has been used and can no longer serve the purpose for which it was produced.

(84) "State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

(85) "Storage" means the holding of dangerous waste for a temporary period, except that the accumulation of dangerous waste, by the generator on the site of generation, for less than ninety days from the date the dangerous waste was generated is not storage as long as the generator complies with the requirements of WAC 173-303-200.

(86) "Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

(87) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(88) "Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

(89) "Thermal treatment" means the use of a device which uses primarily elevated temperatures to treat a dangerous waste.

(90) "TLm<sub>96</sub>" means the same as "Aquatic LC<sub>50</sub>."

(91) "Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

(92) "Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

(93) "Transfer facility" or "collection facility" means a facility at which dangerous waste shipments are collected, consolidated, and stored for more than ten days before transfer to a storage, treatment, or disposal facility.

(94) "Transportation" means the movement of dangerous waste by air, rail, highway, or water.

(95) "Transporter" means a person engaged in the off-site transportation of dangerous waste.

(96) "Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

(97) "Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

(98) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

(99) "Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160(2), containers.

(100) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

(101) "Unsaturated zone" means the zone between the land surface and the water table.

(102) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

(103) "Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

(104) "Waste water treatment unit" means a device which:

(a) Is part of a waste water treatment facility which is subject to regulation under either:

(i) Section 402 or section 307(b) of the Federal Clean Water Act; or

(ii) Chapter 90.48 RCW, State Water Pollution Control Act, provided that any dangerous waste treated at

the facility is designated only by this chapter 173-303 WAC and is not regulated as hazardous waste under 40 CFR Part 261; and

(b) Handles dangerous waste as defined in WAC 173-303-070 through 173-303-103 in either of the following manner:

(i) Receives and treats or stores an influent dangerous waste water; or

(ii) Generates and accumulates or treats or stores a dangerous waste water treatment sludge; and

(c) Meets the definition of tank in WAC 173-303-040.

(105) "Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state and local statutes, regulations and ordinances and either:

(a) A continuous on-site, physical construction program has begun; or

(b) The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(106) "New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

Any terms used in this chapter which have not been defined in this section shall have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else shall have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-040, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-040, filed 2/10/82. Formerly WAC 173-302-040.]

**WAC 173-303-045 References to EPA's hazardous waste and permit regulations.** Any references in this chapter to any parts, subparts, or sections from EPA's Hazardous Waste Regulations, including 40 CFR Parts 260 through 270 and Part 124, shall be in reference to those rules as they existed on March 31, 1984. Copies of the appropriate referenced federal requirements are available upon request from the department. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-045, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-045, filed 2/10/82.]



**WAC 173-303-050 Department of ecology cleanup authority.** The department may conduct or contract for the removal of dangerous wastes or hazardous substances where there has been or is a potential for discharge or release, regardless of quantity or concentration, which could pose a threat to public health or the environment. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-050, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-050, filed 2/10/82. Formerly WAC 173-302-060.]

**WAC 173-303-060 Notification and identification numbers.** (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility shall have a current EPA/state identification number (EPA/state ID#). Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility which does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled or withdrawn, shall be in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received his ID#, must notify the department by obtaining and completing a Washington state notification form 2, and submitting the completed form to the department. Any person already assigned an EPA/state ID# must submit a revised notification form 2 to the department prior to any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity. Notification form 2 and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted if an ID# will not be used for at least two years. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-060, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-060, filed 2/10/82.]

**WAC 173-303-070 Designation of dangerous waste.** (1) Purpose. This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(2) Applicability. The procedures in this section are applicable to any person who generates a solid waste that is not exempted or excluded by this chapter. This section does not apply to those persons who handle wastes that are excluded by WAC 173-303-071 or are exempted by the department. Any person who must determine whether or not his solid waste is designated shall

perform such designation in the following general manner:

(a) List designation. He shall determine whether or not his waste is designated by the dangerous waste lists, WAC 173-303-080 through 173-303-084, and, if not, shall then also determine whether or not his waste is designated by the dangerous waste characteristics, WAC 173-303-090; or

(b) Criteria designation. Except as provided otherwise in subsection (3)(c) of this section, in lieu of (a) of this subsection, he shall determine whether or not his waste is designated by the dangerous waste criteria, WAC 173-303-100 through 173-303-103.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW shall comply with the requirements of WAC 173-303-072.

(3) Designation procedures. To determine whether or not his waste is designated, a person must use certain sections of this chapter in the manner set forth in (a) and (b) of this subsection. Any person who determines by these procedures that his waste is designated DW or EHW shall be subject to all applicable requirements of chapter 173-303 WAC. The dangerous waste designation procedures are also illustrated in WAC 173-303-9901, Flowchart for designating dangerous wastes, and WAC 173-303-9902, Narrative for designating dangerous wastes.

(a) List designation. Except as provided in (b) of this subsection, a person shall check his waste against the following sections, and in the following order:

(i) First, Discarded chemical products, WAC 173-303-081;

(ii) Second, Dangerous waste sources, WAC 173-303-082;

(iii) Third, Infectious dangerous wastes, WAC 173-303-083;

(iv) Fourth, Dangerous waste mixtures, WAC 173-303-084; and

(v) Last, Dangerous waste characteristics, WAC 173-303-090.

A person shall check each section, in the order set forth, until he determines that his waste is designated. Once his waste is designated, he need not determine any other designations for his waste, except as required by subsection (5) of this section. If one section results in his waste being both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for EP toxicity), the waste must be designated EHW. If he has checked his waste against each section and his waste is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

(b) Criteria designation. Except as provided otherwise in (c) of this subsection, in lieu of (a) of this subsection (list designation) a person shall check his waste against the following sections, and in the following order:

(i) First, Toxic dangerous wastes, WAC 173-303-101;

(ii) Second, Persistent dangerous wastes, WAC 173-303-102;

(iii) Third, Carcinogenic dangerous wastes, WAC 173-303-103; and

(iv) Last, Dangerous waste characteristics, WAC 173-303-090.

A person shall check each section, in the order set forth, until he determines that his waste is designated. If he determines that his waste is designated DW, then he must assure that it is not also EHW by checking it against the remaining sections. If he determines that his waste is designated EHW, then he need not check it against any remaining sections. If designation results in his waste being both EHW and DW (e.g., a waste might be EHW for toxicity and DW for persistence), the waste must be designated EHW. If he has checked his waste against all of the sections and it is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

(c) Designating certain listed wastes by the criteria. Any person who has chosen to designate his waste according to the procedures specified in (b) of this subsection (criteria designation) must, if his waste is listed in WAC 173-303-081 or 173-303-082, comply with the following requirements:

(i) If his waste is designated by the procedures of (b) of this subsection, then his waste will still be designated as a listed waste also, and will be subject to all requirements of this chapter applicable to listed dangerous wastes; and

(ii) If his waste is not designated by the procedures of (b) of this subsection, then:

(A) The person must notify the department of his determination under (b) of this subsection (criteria designation), and request a notice from the department indicating that it agrees with his decision that the waste should not be designated;

(B) Until the department issues a notice of agreement to the person, he must handle his waste in accordance with all requirements of this chapter applicable to listed dangerous wastes;

(C) The department will review the person's request and decide whether or not it agrees with the person's decision that his waste should not be designated. In deciding whether or not to agree, the department will consider:

(I) The person's determination under (b) of this subsection (criteria designation); and

(II) In addition, the factors specified under WAC 173-303-072(4).

The department will request, and the person shall provide, any information it deems necessary to make an accurate decision to agree or disagree. Failure by the person to provide all requested information will form a basis for the department to not issue a notice of agreement; and

(D) If the department agrees that the person's waste should not be designated, then it will issue a notice of agreement to the person and his waste will not be designated a dangerous waste for the purposes of this chapter. If instead the department decides that the person's waste should be designated a dangerous waste, then the department will notify the person of its decision and the person's waste will be designated a listed dangerous

waste. For the purposes of this chapter, the person's waste will then be subject to all requirements applicable to listed dangerous wastes.

(4) Criteria designation required. Notwithstanding any other provisions of this chapter, the department may require any person to determine whether or not his waste is designated under the dangerous waste criteria, WAC 173-303-100 through 173-303-103, if the department has reason to believe that his waste would be designated DW or EHW by the dangerous waste criteria, or if the department has reason to believe that his waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW by the criteria). If a person, pursuant to the requirements of this subsection, determines that his waste is a dangerous waste or that its designation must be changed, then he shall be subject to the applicable requirements of this chapter 173-303 WAC. The department shall base a requirement to designate a waste by the dangerous waste criteria on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW; or

(d) Evidence or information about a person's manufacturing materials or processes which indicate that his wastes may be DW or EHW.

(5) Special knowledge. If a generator has designated his waste under the dangerous waste lists, WAC 173-303-080 through 173-303-084, and has knowledge that his waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that his waste also meets any of the dangerous waste criteria, WAC 173-303-100 through 173-303-103, or both, then he shall also designate his waste in accordance with those dangerous waste characteristics, or criteria, or both.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, he shall use all the dangerous waste numbers which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria. For example, if his waste is ignitable *and* contains extremely hazardous concentrations of halogenated hydrocarbons, he shall use the dangerous waste numbers of D001 and WP01. This shall not be construed as requiring a person to designate his waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to identify the amount of a dangerous waste that, when generated, causes such waste to be subject to the requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or criteria of this chapter is a dangerous waste. Small quantity generators

who produce dangerous waste below the QEL are subject to certain requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating more than one kind of dangerous waste identified by this chapter. In such cases, the generator must consider the aggregate quantity of his wastes when determining whether or not his waste amounts exceed the specific quantity exclusion limits (QEL). Waste quantities must be aggregated for all wastes with common QEL'S. For example, if a person generates 300 pounds of an ignitable waste and 300 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (600 pounds) exceeds their common QEL of 400 pounds. On the other hand, if a person generates one pound of an EHW discarded chemical product and 300 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 400 pounds, respective QEL'S). Additional guidance on aggregating waste quantities is available from the department.

(8) Small quantity generators. A person is a small quantity generator and is subject to the requirements of this subsection if his waste is listed in WAC 173-303-9903 or 173-303-9904 or exhibits one or more of the characteristics described under WAC 173-303-090 (5), (6), (7) and (8), and the quantity of waste that he generates (or the aggregated quantity if he generates more than one kind of waste) does not exceed the quantity exclusion limit for such waste (or wastes). If a person generates any dangerous wastes that exceed the QEL, then all dangerous waste generated by that person is subject to the requirements of this chapter, and such person cannot be a small quantity generator until after all dangerous waste on-site at the time the QEL was exceeded have been removed, treated, or disposed. For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 400 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter. A small quantity generator who generates or accumulates waste in excess of the quantity exclusion limit and becomes subject to the full requirements of this chapter cannot again be a small quantity generator until after all dangerous waste on-site at the time he became fully regulated have been removed, treated, or disposed. A small quantity generator will not be subject to the requirements of this chapter if he:

(a) Complies with subsections (1), (2), (3), and (4) of this section; and

(b) Either treats or disposes of his dangerous waste in an on-site facility, or ensures delivery to an off-site facility, either of which is:

(i) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(ii) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(iii) Permitted to manage municipal or industrial solid waste in accordance with chapter 70.95 RCW and chapter 173-301 WAC, or in accordance with another state's solid waste laws if the waste is sent out of state; or

(iv) A facility that beneficially uses or reuses, or legitimately recycles or reclaims his dangerous waste, or that treats his waste prior to such recycling activities. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-070, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-070, filed 2/10/82.]

#### **WAC 173-303-071 Excluded categories of waste.**

(1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter shall comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050:

(a) Domestic sewage, and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works (POTW) for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment;

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes which are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including garbage, trash, and sanitary wastes

in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas);

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Waste wood or wood products treated with preservatives if the waste is generated by persons who utilize the treated wood or wood products for these materials' intended end use;

(h) Irrigation return flows;

(i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;

(j) Mining overburden returned to the mining site;

(k) (i) Polychlorinated biphenyl (PCB) wastes whose disposal is regulated by EPA under 40 CFR 761.60;

(ii) Any transformer or capacitor that contains PCB if the transformer or capacitor, and any liquid from such transformer or capacitor, is:

(A) Stored in a manner equivalent to the requirements of 40 CFR 761.65; and

(B) Within one year of removal from service, either burned in an incinerator that complies with 40 CFR 761.70, or disposed of in a landfill that complies with 40 CFR 761.75; and

(l) Asbestos wastes or asbestos containing wastes which would be designated only as respiratory carcinogens by WAC 173-303-084 or 173-303-103, and any other inorganic wastes which are designated only under WAC 173-303-084 or 173-303-103 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the asbestos management procedures of 40 CFR Part 61. [Statutory Authority: Chapter 70.105 RCW. 85-09-042 (Order DE-85-02), § 173-303-071, filed 4/15/85; 84-09-088 (Order DE 83-36), § 173-303-071, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-071, filed 2/10/82.]

**WAC 173-303-072 Procedures and bases for exempting and excluding wastes.** (1) Purpose and applicability.

(a) The purpose of this section is to describe the procedures that will be followed by generators and the department when wastes are considered for exemption or exclusion from the requirements of this chapter. Any person(s) whose waste is exempted or excluded will not be subject to the requirements of this chapter unless the department revokes the exemption or exclusion.

(b) Any person seeking a waste exemption must submit a petition to the department according to the procedures of WAC 173-303-910(3). A petition for exemption will be assessed against the applicable bases for exemption described in subsections (3), (4), and (5) of this section.

(c) Any persons seeking to categorically exclude a class of wastes must submit a petition to the department according to the procedures of WAC 173-303-910(4). A petition for exclusion will be assessed against the applicable bases for exclusion described in subsection (6) of this section.

(2) Department procedures. When considering, granting, or denying a petition for exemption or exclusion, the department shall follow the appropriate procedures described in WAC 173-303-910(1).

(3) Bases for exempting wastes. To successfully petition the department to exempt a waste, the petitioner must demonstrate to the satisfaction of the department that:

(a) He has been able to accurately describe the variability or uniformity of his waste over time, and has been able to obtain demonstration samples which are representative of his waste's variability or uniformity; and, either

(b) The representative demonstration samples of his waste are not designated DW or EHW by the dangerous waste criteria, WAC 173-303-100 through 173-303-103; or

(c) It can be shown, from information developed by the petitioner through consultation with the department, that his waste does not otherwise pose a threat to public health or the environment, except that this basis for exemption is not applicable to wastes which exhibit any of the characteristics specified in WAC 173-303-090.

(4) Additional bases for exempting listed wastes. In addition to the demonstrations required by subsections (3) (a) and (b) of this section, for wastes listed in WAC 173-303-081 or 173-303-082 the petitioner must also demonstrate to the satisfaction of the department that his waste is not capable of posing a substantial present or potential threat to public health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The following factors will be considered by the department when assessing such a demonstration:

(a) Whether or not the listed waste contains the constituent or constituents which caused it to be listed. (For the purposes of this subsection, the constituents referred to will include any of the dangerous waste constituents listed in WAC 173-303-9905);

(b) The nature of the threat posed by the waste constituent(s);

(c) The concentration of the constituent(s) in the waste;

(d) The potential of the constituent(s) or any degradation product of the constituent(s) to migrate from the waste into the environment under the types of improper management considered in (h) of this subsection;

(e) The persistence of the constituent(s) or any degradation product of the constituent(s);

(f) The potential for the constituent(s) or any degradation product of the constituent(s) to degrade into nonharmful constituents and the rate of degradation;

(g) The degree to which the constituent(s) or degradation product of the constituent(s) bioaccumulates in ecosystems;

(h) The plausible types of improper management to which the waste could be subjected;

(i) The quantities of the waste generated at individual generation sites or on a state-wide basis. Under this factor, the department will also consider whether or not the waste is listed under WAC 173-303-081 as a discarded chemical product and occurs in a relatively pure form. Any waste discarded chemical product which exceeds the quantity exclusion limit specified in WAC 173-303-081(2) for that waste will not be exempted;

(j) The nature and severity of the public health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent(s);

(k) Actions taken by other governmental agencies or regulatory programs based on the health or environmental threat posed by the waste or waste constituent(s); and

(l) Such other factors as may be appropriate.

(5) Bases for exempting wastes designated solely for the presence of chromium. The department will exempt a waste which is designated because of the presence of chromium if the petitioner can demonstrate that:

(a) The waste is not designated for any other characteristic under WAC 173-303-090, or for any of the criteria specified in WAC 173-303-101, 173-303-102 or 173-303-103;

(b) The waste is not listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium;

(c) The waste is typically and frequently managed in nonoxidizing environments or under nonoxidizing conditions; and

(d) Either of the following demonstrations can be made:

(i) The waste is generated from a process which uses trivalent chromium exclusively (or nearly exclusively), the process does not generate hexavalent chromium, and the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; or

(ii) Under test procedures approved by the department, the EP extract of the waste can be shown to contain less than five milligrams per liter (5 mg/L) of hexavalent chromium.

(6) Bases for categorically excluding classes of wastes. This subsection does not apply to any waste class that includes hazardous waste regulated under 40 CFR Part 261. To successfully petition the department to categorically exclude a class of wastes, petitioners must demonstrate to the satisfaction of the department that the petition or petitions for exclusion:

(a) Accurately describe the class of wastes for which categorical exclusion is sought and show that the class of wastes does not include any wastes which would be regulated as hazardous waste under 40 CFR Part 261;

(b) Describe the variability or uniformity of the class of wastes over time and in relation to the individual wastes that comprise the class of waste;

(c) Discuss the generators and their individual wastes that belong to the class of wastes and, to the extent practical, any generators or individual wastes that, although belonging to the class of wastes, are not represented by the petition or petitions; and

(d) For each individual waste within the class of wastes, provide the demonstration described by subsection (3) of this section, except that where it is determined by consultation with the department to be impractical to provide the demonstration for each individual waste, the petitioner or petitioners shall provide the demonstration for samples of the individual wastes determined by consultation with the department to be representative of the class of wastes. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-072, filed 6/27/84.]

**WAC 173-303-075 Certification of designation. (1) Purpose and applicability.**

(a) The purpose of WAC 173-303-075 is to establish procedures by which the generator of a solid waste may apply to the department for a review of his waste, and for a determination of the designation of his waste. When a final determination is made, the department shall issue a certificate of designation which shall describe the status of the generator's waste with respect to the designation requirements of this chapter 173-303 WAC.

(b) The provisions of this section are applicable to any person who produces a solid waste, who may be subject to the requirements of this chapter 173-303 WAC as the generator of a dangerous waste and who wishes to obtain a certificate designating the status of his waste.

(2) Certification. Any person who produces a solid waste which could be a dangerous waste may apply to the department, in accordance with the guidelines published pursuant to WAC 173-303-075(4), for a certificate of designation for his waste.

(a) The certificate of designation will describe the status of the designation for a waste or wastes as follows:

(i) Either, the certificate will state that the waste or wastes listed in the certificate are designated dangerous waste; or

(ii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the designation lists or characteristics of WAC 173-303-080 through 173-303-090; or

(iii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the dangerous waste lists, characteristics or criteria, WAC 173-303-080 through 173-303-103.

(b) The certificate of designation will, at a minimum, include the following information:

(i) The name, address, telephone number and, where applicable, the EPA/state identification number of the person to whom the certificate is issued;

(ii) A statement of the status of the designation of the waste or wastes listed in the certificate and, if designated, whether DW or EHW;

(iii) A listing of the waste or wastes for which the certificate has been issued;

(iv) The signature of the director or his designee;

(v) The date on which the certificate was issued; and

(vi) The period of time or conditions for which the certificate is valid.

(c) Once a certificate of designation has been issued to a person, that person is no longer subject to the designation procedures of WAC 173-303-080 through 173-303-103, unless the period of time for which the certificate is valid expires, the conditions under which the certificate is valid change, or the department withdraws its certification of designation in accordance with WAC 173-303-075(5). If the certificate states that the waste or wastes listed in it are designated, then the person to whom the certificate is issued shall comply with all applicable requirements of this chapter 173-303 WAC. If the certificate states that the waste or wastes listed in it are not designated, then the person to whom the certificate is issued is not subject to the requirements of this chapter 173-303 WAC, unless the certificate becomes invalid or the department withdraws its certification.

(d) While an application for a certificate of designation is pending final action by the department, the person applying for certification must comply with all applicable requirements of this chapter 173-303 WAC.

(e) While a certificate of designation is being amended, in accordance with WAC 173-303-075(5), the certificate shall remain in effect except for those parts of the certificate which the department specifically suspends.

(3) Designation. Determination of the status of designation for a waste or wastes for which a certificate of designation is being sought shall follow the procedures set forth in this subsection.

(a) A waste shall be certified as a dangerous waste if it is designated under any of the methods set forth in WAC 173-303-080 through 173-303-103.

(b) A waste shall be certified as not a dangerous waste if:

(i) It has only been checked against WAC 173-303-080 through 173-303-090 (lists and characteristics) and it is not designated; or

(ii) It has been checked against the dangerous waste lists, characteristics and criteria, WAC 173-303-080 through 173-303-103, and it is not designated.

(4) Application. Any person who wishes to apply for a certificate of designation shall do so according to the certification guidelines published by and available from the department. The department shall follow the procedures specified in the certification guidelines when considering an application for a certificate.

(5) Review of certification. Review of and changes to or withdrawal of certificates of designation shall be performed by the department according to the procedures specified in the certification guidelines, available from

the department. At a minimum, the certification guidelines provide for the following procedures:

(a) The department will periodically review each certificate of designation to insure that it is current and accurately states the proper designation for the waste or wastes listed on the certificate.

(b) The department may amend, or any person with a certificate of designation may request the department to amend, any certificate in the event that changes to the certificate are necessary to keep it current or maintain its accuracy. The person will obtain concurrence of the department if he wishes to amend his certificate to reflect changes in the information on the certificate (e.g., new wastes, changes in waste properties, changes of address, etc.).

(c) The department reserves the authority to withdraw any certificate of designation if there is reason to believe that the certificate results in a threat to public health or the environment. If a certificate is withdrawn, then the waste or wastes listed on the certificate shall be subject to all applicable requirements of this chapter 173-303 WAC. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-075, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-075, filed 2/10/82.]

**WAC 173-303-081 Discarded chemical products.**

(1) A waste shall be designated as a discarded chemical product if it is discarded or intended to be discarded in amounts greater than the quantity exclusion limits of subsection (2) of this section, and if it is, or if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) Any containers or inner liners that have been used to hold any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the acutely dangerous chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty and have been triple rinsed as described in WAC 173-303-160 (2) and (4);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, shall be a dangerous waste generator if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated EHW;

(ii) For chemicals and for residues from the cleanup of spills involving chemicals designated on the moderately dangerous chemical products list of WAC 173-303-9903 - 400 lbs. (181.8 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch. Even if the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160 (2) and (4), the residue quantities remaining in the containers or inner liners must be summed as an aggregate quantity. Such wastes are designated EHW;

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated EHW.

(b) A person's total monthly waste quantity shall be the sum of all his wastes which share a common quantity exclusion limit (e.g., the total quantity of all EHW discarded chemical products, the total quantity of all residues contaminated by EHW discarded chemical products, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product shall be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture shall be designated. The mixture designation shall be the same as the designation for the discarded chemical product which was mixed with the solid waste. For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004; EHW designation) and 22 lbs. (10 kg) of a solid waste, would be designated as an EHW, and would have the dangerous waste number P004. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-081, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-081, filed 2/10/82.]

**WAC 173-303-082 Dangerous waste sources.** The dangerous waste sources list appears in WAC 173-303-9904. Any waste which is listed or which is a residue from the management of a waste listed on the dangerous

waste sources list, and which is generated in amounts which exceed 400 lbs. (181.8 kg) per month or per batch, shall be designated DW, and shall be assigned the dangerous waste number which corresponds to the waste's listing. Note - WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW. Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture shall be designated as a dangerous waste source. The mixture shall have the same designation (DW or EHW), and shall have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste. For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste source if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-082, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-082, filed 2/10/82.]

**WAC 173-303-084 Dangerous waste mixtures.** (1) Purpose. It is the purpose of this section to describe the means for designating a waste mixture containing dangerous wastes which are not listed in WAC 173-303-081 through 173-303-083.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) *Registry of Toxic Effects of Chemical Substances* (Registry) is adopted by reference. The table in the United States EPA's regulations 40 CFR Table 117.3 (Spill Table) is adopted by reference.

(3) Waste mixture defined. For the purposes of this section, a waste mixture shall be any waste about which some or all of its constituents and concentrations are known, and which has not been designated as:

(a) A discarded chemical product under WAC 173-303-081;

(b) A dangerous waste source under WAC 173-303-082; or

(c) An infectious dangerous waste under WAC 173-303-083.

(4) A person who has a waste mixture shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH Registry and/or to the EPA Spill Table to determine:

(a) Toxicity data or category for each known constituent in his waste;

(b) Whether or not each known constituent of his waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings; and,

(c) Whether or not each known constituent of his waste is an International Agency for Research on Cancer (IARC) human or animal, positive or suspected carcinogen.

(5) Toxicity.

(a) If a person has toxic constituents in his waste, he shall determine the toxic category for each known toxic constituent. The toxic category for each constituent may be determined directly from EPA'S Spill Table, or by obtaining data from the NIOSH Registry and checking this data against the toxic category table, below. If data is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If toxicity data for a constituent cannot be found in EPA'S Spill Table, NIOSH Registry, or other source reasonably available to a person, then he need not determine the toxic category for that constituent.

TOXIC CATEGORY TABLE

Category	TLm96 (Fish) or, Aquatic (Fish) LC50(ppm)	Oral (Rat) LD50(mg/kg)	Inhalation (Rat) LC50(mg/L)	Dermal (Rabbit) LD50(mg/kg)
X	<.1	<.5	<.02	< 2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) A person whose waste mixture contains one or more toxic constituents shall determine the equivalent concentration for his waste from the following formula:

$$\text{Equivalent Concentration}(\%) = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where  $\Sigma(X,A,B,C, \text{ or } D) \%$  is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste mixture contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C.}(\%) &= \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10000} + \frac{0\%}{100000} \\ &= .01\% + 0\% + .01\% + .011\% + 0\% = .031\% \end{aligned}$$

So his equivalent concentration equals .031%.

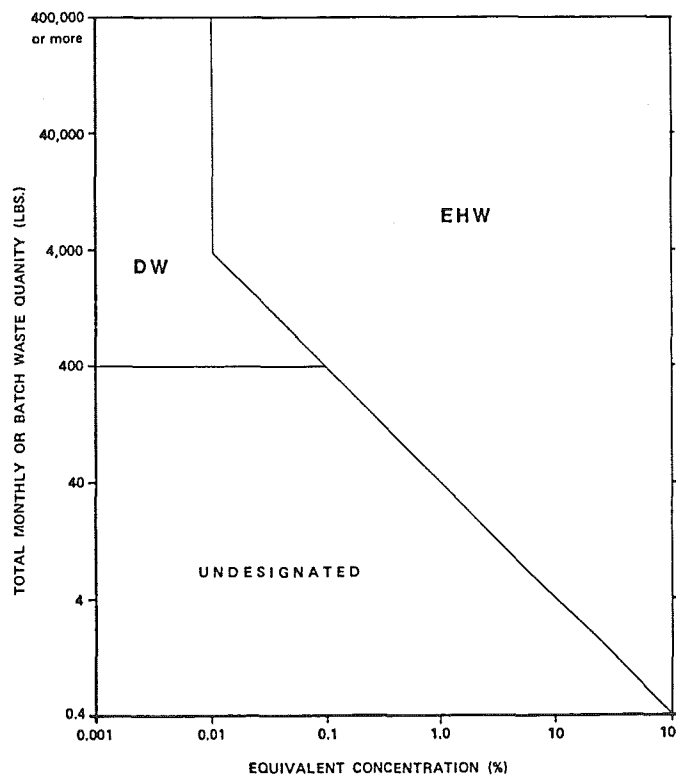
(c) A person whose waste mixture contains toxic constituents shall determine his designation from the toxic dangerous waste mixtures graph, below, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste as DW; if the plotted point is in the area marked EHW, he shall designate his waste as EHW.

(d) If a person knows only some of the toxic constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for toxicity under this subsection.

(e) Toxic dangerous waste mixtures graph. A larger version of this graph appears in WAC 173-303-9906.

Figure 1.

TOXIC DANGEROUS WASTE MIXTURES GRAPH



(6) Persistence.

(a) A person whose waste mixture contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of those halogenated hydrocarbons for which he knows the concentrations in his waste mixture.

Example 2. A person's waste mixture contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1-trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration}(\%) = .009\% + .012\% + .02\% = .041\%$$

(b) A person whose waste mixture contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three



rings and less than seven rings about which he knows the concentration in his waste mixture.

Example 3. A person's waste mixture contains: Chrysene - .08%; 3, 4 - benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

Total PAH Concentration (%) = .08% + 1.22% = 1.3%

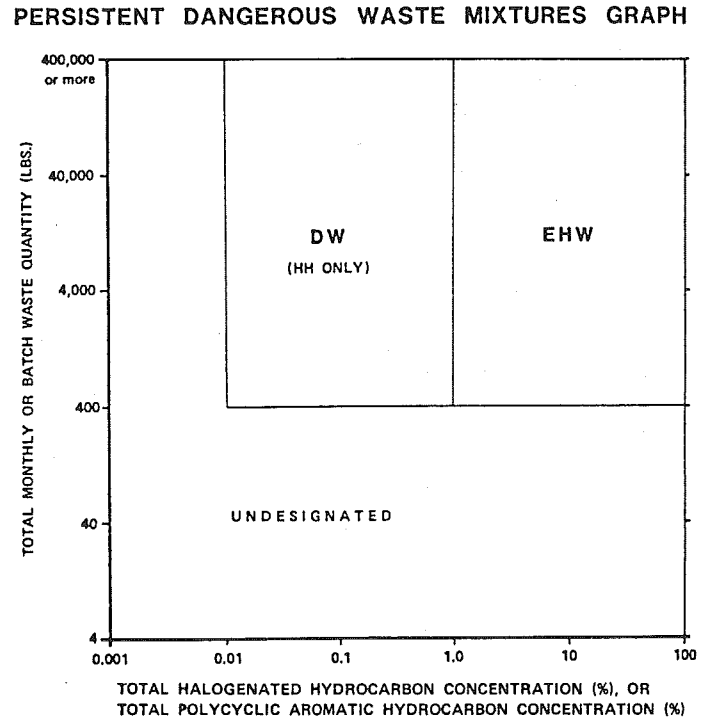
(c) A person whose waste mixture contains halogenated hydrocarbons shall determine his designation from the persistent dangerous waste mixtures graph, below, by finding the total halogenated hydrocarbon concentration for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total halogenated hydrocarbon concentration. If the plotted point is in the area marked DW, then he shall designate his waste DW; if the plotted point is in the area marked EHW, then he shall designate his waste EHW.

(d) A person whose waste mixture contains polycyclic aromatic hydrocarbons with more than three rings and less than seven rings shall determine his designation from the persistent dangerous waste mixtures graph, below, by finding the total polycyclic aromatic hydrocarbon concentration of his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total polycyclic aromatic hydrocarbon concentration. If the plotted point is in the area marked EHW, then he shall designate his waste EHW. If the plotted point is outside of the area marked EHW, then his waste is not designated.

(e) If a person knows only some of the persistent constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for persistence under this subsection.

(f) Persistent dangerous waste mixtures graph. A larger version of this graph also appears in WAC 173-303-9907.

Figure 2.



(7) Carcinogens. Any person whose waste mixture contains one or more IARC human or animal, positive or suspected carcinogen(s) shall designate his waste DW if:

(a) The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and

(b) The monthly or batch waste quantity exceeds 400 lbs. (181.8 kg.).

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.

(8) Assigning dangerous waste numbers. A person whose waste is a dangerous waste mixture shall assign a dangerous waste number from the generic dangerous waste numbers table in WAC 173-303-104, Generic dangerous waste numbers. He shall assign the dangerous waste number from the table which corresponds to the designation for his dangerous waste. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-084, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-084, filed 2/10/82.]

**WAC 173-303-090 Dangerous waste characteristics.** (1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section shall be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste which exhibits one or more of the dangerous waste characteristics shall be subject to the requirements of this chapter if its quantity exceeds 400 lbs. (181.8 kg.) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using Method 5.2 in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, available from the department;

(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*. The NACE Standard is available from the department; or

(iii) It is solid or semi-solid, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110 (3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D002.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D003.

(8) Characteristic of EP toxicity.

(a) A solid waste exhibits the characteristic of EP toxicity if, using *Extraction Procedure Test Methods - 1981* on file with the department, the extract from a representative sample of the waste contains any of the contaminants listed in the EP toxicity list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of this subsection.

(b) A solid waste that exhibits the characteristic of EP toxicity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-

080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) EP toxicity list. Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations in the EHW range shall cause that waste to be designated EHW. Any waste containing contaminants which occur at concentrations in the DW range only (i.e., no EHW contaminants), shall be designated DW.

EP TOXICITY LIST

Dangerous Waste Number	Contaminant	EHW Maximum Concentration		DW Maximum Concentration	
		In Extract (mg/L)	(mg/L)	In Extract (mg/L)	(mg/L)
D004	Arsenic	> 500	5	5	500
D005	Barium	> 10,000	100	100	10,000
D006	Cadmium	> 100	1	1	100
D007	Chromium	> 500	5	5	500
D008	Lead	> 500	5	5	500
D009	Mercury	> 20	0.2	0.2	20
D010	Selenium	> 100	1	1	100
D011	Silver	> 500	5	5	500
D012	Endrin	> 2	0.02	0.02	2
D013	Lindane	> 40	0.4	0.4	40
D014	Methoxychlor	> 1,000	10	10	1,000
D015	Toxaphene	> 50	0.5	0.5	50
D016	2,4-D	> 1,000	10	10	1,000
D017	2,4,5-TP Silvex	> 100	1	1	100

[Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-090, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-090, filed 2/10/82.]

**WAC 173-303-100 Dangerous waste criteria.** (1) The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes, WAC 173-303-101;
- (b) Persistent dangerous wastes, WAC 173-303-102;
- (c) Carcinogenic dangerous wastes, WAC 173-303-103; and
- (d) Dangerous waste characteristics, WAC 173-303-090.

(2) Applicability. Any person who has established that his waste meets any of the dangerous waste criteria is a dangerous waste generator, and shall comply with the applicable requirements set forth in this chapter. A person shall use the dangerous waste criteria to designate his waste pursuant to WAC 173-303-070 (3)(b), or (4), or to exempt his waste pursuant to WAC 173-303-072, or to otherwise establish the risk which his waste presents to public health and the environment. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-100, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-100, filed 2/10/82.]

**WAC 173-303-101 Toxic dangerous wastes.** (1) Purpose. This section describes methods for determining

the toxicity of a waste and the criteria by which a toxic waste shall be designated DW or EHW.

(2) Categorization. (a) The following toxic category table establishes categories (X, A, B, C, or D) for particular toxicity levels. The X category is the most toxic, and the D category is least toxic. Substances which have toxicity levels below the D category are generally considered to be nontoxic.

TOXIC CATEGORY TABLE

Category	TLm96 (Fish) or Aquatic (Fish) LC50(ppm)	Oral (Rat) LD50(mg/kg)	Inhalation (Rat) LC50(mg/L)	Dermal (Rabbit) LD50 (mg/kg)
X	<.1	<.5	<.02	<2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) In order to determine the toxic categories for the constituents in his waste, a person must obtain toxicity data on the constituents either through knowledge he has about his waste, or by obtaining data from the two sources referenced in subsection (3)(a) and (b) of this section, (EPA's Spill Table and NIOSH Registry). If data obtained for a constituent is available for more than one of the toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used to assign the most acutely toxic category to the waste constituent.

(3) Establishing waste toxicity. A person shall establish the toxicity of his waste or waste constituents by applying his knowledge about his waste, or by using the following information sources or testing methods, or all of these:

- (a) The National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances* (Registry);
- (b) The United States EPA's regulation 40 CFR Table 117.3 (Spill Table); and
- (c) The bioassay testing methods adopted under WAC 173-303-110(3).

(4) Book designation procedure.

(a) A person may use the book designation procedure described in this paragraph only if:

(i) He knows the toxic categories (as set forth in subsection (2) of this section) for the significant toxic constituents in his waste;

(ii) He knows the concentrations of the significant toxic constituents in his waste; and

(iii) He can demonstrate to the department beyond a reasonable doubt that any waste constituents about which he has limited or no knowledge do not significantly affect the toxicity of his waste.

(b) Equivalent concentration. A person who is book designating his waste shall determine the equivalent concentration (in percent) of the toxic constituents in his waste by using the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{1000} + \frac{\Sigma D\%}{10,000}$$

where  $\Sigma(X,A,B,C, \text{ or } D)\%$  is the sum of all the concentration percentages for a particular toxic category.

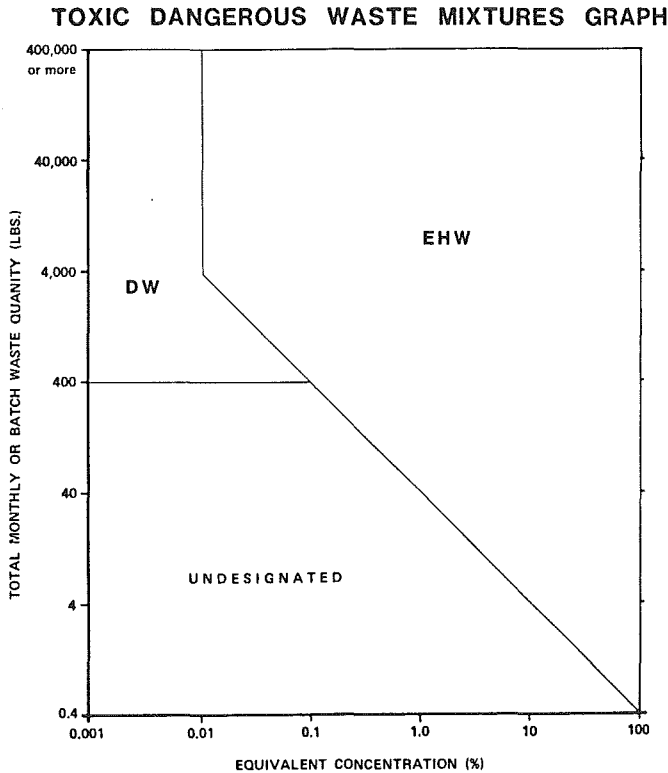
Example 1. A person's waste contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{.01}{10} + \frac{0}{100} + \frac{1}{1000} + \frac{(4 + 2 + 5)}{10000} + \frac{0}{10000} \\ &= .01\% + 0\% + .01\% + .011\% + 0\% = .031\% \end{aligned}$$

So his equivalent concentration equals .031%.

(c) Toxic dangerous waste graph. To book designate his waste, a person shall use the toxic dangerous waste mixtures graph, below (a larger version of this graph appears in WAC 173-303-9906), by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste DW; if the plotted point is in the area marked EHW, he shall designate his waste EHW.

Figure [1]



(5) Designation from bioassay data. If a person has established the toxicity of his waste by means of the bioassay test methods adopted under WAC 173-303-110(3), and has determined his waste's toxicity range (C category or greater toxicity, or D category toxicity), then he shall designate his waste according to the toxic dangerous waste designation table, below.

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxic range falls in the . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation is . . .
D Category	Greater than 400 lbs. (181.8 kg)	DW
X, A, B, or C Category	40 - 400 lbs. (18.2 - 181.8 kg)	DW
	Greater than (181.8 kg)	EHW

[Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-101, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-101, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-102 Persistent dangerous wastes.** (1) Purpose. This section describes the procedures for designating wastes which contain halogenated hydrocarbons (HH) and/or polycyclic aromatic hydrocarbons with more than three rings and less than seven rings (PAH).

(2) Concentration determination. A person shall determine the concentration of HH and/or PAH in his waste by either testing his waste as specified in (a) of this subsection, or by the calculation procedures described in (b) of this subsection.

(a) Concentration tests. A person shall test his waste to determine its concentration level as follows:

- (i) For HH - By using the testing methods specified in WAC 173-303-110 (3)(b); and,
- (ii) For PAH - By using the testing methods specified in WAC 173-303-110 (3)(c).

(b) Concentration calculations. If a person knows the concentrations of the significant persistent constituents in his waste, and if he can demonstrate to the department beyond a reasonable doubt that any remaining persistent constituents for which he does not know the concentrations would not contribute significantly to the total persistent concentration, then he may calculate the concentration of persistent constituents in his waste as follows:

(i) A person whose waste contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of his waste's significant halogenated hydrocarbons.

Example 1. A person's waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1-trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(ii) A person whose waste contains one or more polycyclic aromatic hydrocarbons with more than three

rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of his waste's significant polycyclic aromatic hydrocarbons with more than three rings and less than seven rings.

Example 2. A person's waste contains: Chrysene - .08%; 3, 4 - benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(3) Designation criteria and quantity. A person whose waste contains persistent (HH or PAH) constituents shall designate his waste according to the persistent dangerous waste table, below, if his monthly or batch waste quantity exceeds 400 lbs. (181.8 kg.).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a concentration level of . . .	Then your waste's designation is . . .
Halogenated	0.01 to 1.0%	DW
Hydrocarbons (HH)	greater than 1.0%	EHW
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*

\* No DW concentration level for PAH.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-102, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-102, filed 2/10/82. Formerly WAC 173-302-130.]

**WAC 173-303-103 Carcinogenic dangerous wastes.**

(1) Criteria. A substance which is listed in the National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances* (Registry), or any other scientific or technical documents, as an IARC (International Agency for Research on Cancer) human or animal, positive or suspected carcinogen, shall be a carcinogenic substance for the purposes of this section. Any IARC identified substance which is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled).

(2) Designation. Any person whose waste contains one or more IARC carcinogen(s) shall designate his waste if:

(a) The monthly or batch waste quantity exceeds 400 lbs. (181.8 kg); and either

(b)(i) The concentration of any one IARC positive (human or animal) carcinogen exceeds 1.0% of the waste quantity. Such waste shall be designated EHW, and such designation shall take precedence over any DW designation determined by (b)(ii) or (iii) of this subsection; or

(ii) The concentration of any one IARC positive (human or animal) carcinogen exceeds 0.01% of the waste quantity. Such waste shall be designated DW; or

(iii) The total concentration summed for all IARC positive and suspected (human and animal) carcinogens exceeds 1.0% of the waste quantity. Such waste shall be designated DW.

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC *Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans*. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-103, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-103, filed 2/10/82.]

**WAC 173-303-104 Generic dangerous waste numbers.**

(1) Purpose. This section sets forth the dangerous waste number for each of the dangerous waste criteria designations.

(2) Characteristics. A waste which exhibits any of the dangerous waste characteristics, WAC 173-303-090, shall be assigned the dangerous waste number corresponding to the characteristic(s) exhibited by the waste.

(3) Criteria. The following table shall be used for assigning dangerous waste numbers to wastes designated by the dangerous waste criteria or by WAC 173-303-084.

GENERIC DANGEROUS WASTE NUMBERS TABLE

Dangerous Waste#	Dangerous Waste Criteria and Designation
	Toxic Dangerous Wastes
WT01	EHW
WT02	DW
	Persistent Dangerous Wastes
	Halogenated Hydrocarbons
WP01	EHW
WP02	DW
	Polycyclic Aromatic Hydrocarbons
WP03	EHW
	Carcinogenic Dangerous Wastes
WC01	EHW
WC02	DW

[Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-104, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-104, filed 2/10/82.]

**WAC 173-303-110 Sampling and testing methods.**

(1) Purpose. This section describes the testing methods which may be used in the process of designating a dangerous waste.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider

samples collected using the sampling methods below, for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

- (i) Crushed or powdered material – ASTM Standard D346-75;
- (ii) Extremely viscous liquid – ASTM Standard D140-70;
- (iii) Fly ash-like material – ASTM Standard D2234-76;
- (iv) Soil-like material – ASTM Standard D1452-65;
- (v) Soil or rock-like material – ASTM Standard D420-69;
- (vi) Containerized liquid wastes – "COLIWASA" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982; and,
- (vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs – "Pond Sampler" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982.

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM  
1916 Race Street  
Philadelphia, PA 19103.

(3) Test procedures. The test procedures listed in this subsection are available in two documents, copies of which can be obtained from the department by writing to:

Attn: Test Procedures  
Hazardous Waste Section, PV-11  
Department of Ecology  
Olympia, Washington 98504

The document titles and included test procedures are as follows:

- (a) *Chemical Testing Methods for Complying with the Dangerous Waste Regulation*, March 1982, revised July 1983, describing methods for testing:
    - (i) Ignitability;
    - (ii) Corrosivity, including the addendum, *Test Method for Determining pH of Solutions in Contact with Solids*, March 1984;
    - (iii) Reactivity;
    - (iv) EP Toxicity;
    - (v) Halogenated hydrocarbons; and
    - (vi) Polycyclic aromatic hydrocarbons; and
  - (b) *Biological Testing Methods*, revised July 1981, describing procedures for:
    - (i) Static acute fish toxicity test; and
    - (ii) Acute oral rat toxicity test.
- (4) Substantial changes to the testing methods described above shall be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.
- (5) Equivalent testing methods. Any person may request the department to approve an equivalent testing

method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-110, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-110, filed 2/10/82.]

**WAC 173-303-120 Recycled, reclaimed, and recovered wastes.** (1) This section describes the requirements for persons who recycle solid wastes that are designated as dangerous waste by this chapter.

(2) Unless specified otherwise in WAC 173-303-500 through 173-303-520:

(a) Generators of recycled dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recycled dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270; and

(c) Managers of facilities that recycle dangerous waste are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-280 through 173-303-395, 173-303-420 through 173-303-440, and 173-303-800 through 173-303-840 for all recyclers, WAC 173-303-400 for recyclers with interim status permits, and WAC 173-303-600 through 173-303-670 for recyclers with final facility permits. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-120, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-120, filed 2/10/82.]

**WAC 173-303-121 Accumulation without sufficient use, reuse or recycling.** A substance is accumulated without sufficient amounts being used, reused, or recycled if, during the calendar, fiscal, or inventory year period, the amount of substance that is used, reused or recycled (or transferred to a different site for use, reuse or recycling) during the year period does not equal at least seventy-five percent by volume of the amount of that substance accumulated at the beginning of the period. For the purposes of this section, this principle shall be called overaccumulation. Subsections (1) and (2) of this section provide certain exceptions to this principle of overaccumulation.

(1) Substances shall not be considered as overaccumulated once they have been used, reused, or recycled, even though they may previously have been overaccumulated.

(2)(a) If a substance accumulates for one year without use, reuse, recycling, or transfer of at least seventy-five percent of the accumulated volume, the department may determine that the substance is not being overaccumulated during the following year. To obtain this determination, the person accumulating the substance must notify the department in writing, submitting the following information:

(i) The name and address of the person required to notify and the address of the site of accumulation, if different;

(ii) A description of:

(A) The substance being accumulated;

(B) Why the substance is, or if not exempted would be, a dangerous waste (e.g., whether listed, toxic, ignitable, etc.);

(C) The amount accumulated at the date of notification; and

(D) The way the substance is stored prior to use, reuse, recycling or transfer; and

(iii) A statement of:

(A) What the notifier expects the disposition (use, reuse, transfer, etc.) of the substance to be;

(B) Why this expectation is reasonable (e.g., because of past practice, market factors or contractual arrangements);

(C) Why the substance has accumulated for over one year; and

(D) When the notifier expects the use, reuse, recycling or transfer to occur.

The department may then use this information to determine whether the substance will not be overaccumulated during the following year, or alternatively, may require further pertinent information from the notifier. Such a determination will be based upon the reasonableness of the notifier's expectation that the substance will be used, reused, recycled or transferred for these purposes, taking into account the past practices, market factors, contractual arrangements, character, and quantity of the substance being accumulated, and the manner in which the substance is being stored. The notifier must keep appropriate records to demonstrate why he reasonably expects the accumulated substance to be used, reused, recycled or transferred for these purposes and must provide these records to the department upon its request.

(b) After the second year without use, reuse, recycling or transfer of at least seventy-five percent of the total volume accumulated at the beginning of that year, the department may again determine that the accumulated substance is not being overaccumulated during the following year. To do this, it must receive in writing the same information described in (a) of this subsection, from the person accumulating the substance. In addition, at least fifty percent of the total volume accumulated at the beginning of the year must have been used, reused, recycled, or transferred.

(c) If the substance accumulates for a third year without use, reuse, recycling or transfer of at least seventy-five percent of the total volume accumulated at the beginning of that year, all substance not actually used, reused, recycled, or transferred is being overaccumulated. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-121, filed 4/18/84.]

**WAC 173-303-140 Disposal of extremely hazardous waste.** No person shall dispose of designated EHW at any land disposal facility in the state other than the

facility established and approved by the department for such purpose under chapter 70.105 RCW. A person is not prohibited from reclaiming, recycling, recovering, treating, detoxifying, neutralizing, or otherwise processing EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter 173-303 WAC. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-140, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-140, filed 2/10/82.]

**WAC 173-303-141 Treatment, storage, or disposal of dangerous waste.** A person shall only offer a designated dangerous waste to a TSD facility which is operating either: Under a permit issued pursuant to the requirements of this chapter; or, if the TSD facility is located outside of this state, under interim status or a permit issued by United States EPA under 40 CFR Part 270, or under interim status or a permit issued by another state which has been authorized by United States EPA pursuant to 40 CFR Part 271. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-141, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-141, filed 2/10/82.]

**WAC 173-303-145 Spills and discharges into the environment.** (1) Purpose and applicability. This section sets forth the requirements for any person responsible for a spill or discharge into the environment, except when such release is otherwise permitted under state or federal law. For the purposes of complying with this section, a transporter who spills or discharges dangerous waste or hazardous substances during transportation will be considered the responsible person. This section shall apply when any dangerous waste or hazardous substance is intentionally or accidentally spilled or discharged into the environment (unless otherwise permitted) such that public health or the environment are threatened, regardless of the quantity of dangerous waste or hazardous substance.

(2) Notification. Any person who is responsible for a nonpermitted spill or discharge shall immediately notify the individuals and authorities described for the following situations:

(a) For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, notify the appropriate regional office of the department of ecology; and

(b) For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, in western Washington

notify the local air pollution control authority, or in eastern Washington notify the appropriate regional office of the department of ecology.

(3) Mitigation and control. The person responsible for a nonpermitted spill or discharge shall take appropriate immediate action to protect human health and the environment (e.g., diking to prevent contamination of state waters, shutting of open valves).

(a) In addition, the department may require the person responsible for a spill or discharge to:

(i) Clean up all released dangerous wastes or hazardous substances, or to take such actions as may be required or approved by federal, state, or local officials acting within the scope of their official responsibilities. This may include complete or partial removal of released dangerous wastes or hazardous substances as may be justified by the nature of the released dangerous wastes or hazardous substances, the human and environmental circumstances of the incident, and protection required by the Water Pollution Control Act, chapter 90.48 RCW;

(ii) Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge in accordance with this chapter 173-303 WAC. The department may require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any materials resulting from clean-up; and

(iii) If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the department.

(b) Where immediate removal or temporary storage of spilled or discharged dangerous wastes or hazardous substances is necessary to protect human health or the environment, the department may direct that removal be accomplished without a manifest, by transporters who do not have EPA/state identification numbers.

(4) Nothing in WAC 173-303-145 shall eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-145, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-145, filed 2/10/82.]

**WAC 173-303-160 Containers.** (1) Waste quantity. Containers and inner liners shall not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in nonempty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is empty when all wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, whichever quantity is least, either less than one inch of waste remains at the

bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to one percent or less of the container's total capacity, or, if the container's total capacity is greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure.

(3) Residues remaining in a container or inner liner which held DW need not be designated if the container or inner liner is empty, as defined in subsection (2) of this section.

(4) Residues remaining in a container or inner liner which held EHW, or pesticides bearing the danger or warning label, need not be designated if the container or inner liner is empty, as defined in subsection (2) of this section, and if the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing shall be ten percent or more of the container's or inner liner's capacity. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (e.g., fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (e.g., on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department.

Any rinsate or vacuumed residue which results from the cleaning of containers or inner liners shall whenever possible be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate shall be managed or reused in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property. Otherwise, the rinsate shall be checked against the designation requirements (WAC 173-303-070 through 173-303-103) and, if designated, managed according to the requirements of this chapter 173-303 WAC.

A person may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1). [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-160, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-160, filed 2/10/82. Formerly WAC 173-302-140.]

**WAC 173-303-161 Overpacked containers (labpacks).** Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:



(1) Hazardous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the department of transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material;

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with WAC 173-303-395 (1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090 (7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-161, filed 4/18/84.]

**WAC 173-303-170 Requirements for generators of dangerous waste.** (1) A person shall be a dangerous waste generator if his solid waste is designated by the requirements of WAC 173-303-070 through 173-303-103.

(a) The generator shall be responsible for designating his waste as DW or EHW.

(b) The generator may request an exemption for his dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator shall notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and shall comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Except for the accumulation and storage of dangerous wastes for less than ninety days as allowed under WAC 173-303-200, any generator who transfers, stores, treats, or disposes of dangerous waste on-site shall perform his operations in accordance with the TSD facility requirements of this chapter.

(4) The generator of a moderate risk waste may, upon approval by the department, for moderate risk waste only:

(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for moderate risk waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same moderate risk waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction before implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and

(b) Pursuant to the requirements of WAC 173-303-200, accumulate moderate risk waste in containers and tanks for up to one hundred eighty days, and accumulate moderate risk waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3), (7), (8), and (9). [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-170, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-170, filed 2/10/82.]

**WAC 173-303-180 Manifest.** Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator shall prepare a manifest and shall follow all applicable procedures described in this section.

(1) This subsection describes the form and contents of dangerous waste manifests. Until September 20, 1984, the manifest must meet the requirements of either (a) or (b) of this subsection. On September 20, 1984 and thereafter, all manifests must meet the requirements of (b) of this subsection, and (a) of this subsection will no longer be in effect.

(a) Required information for manifests. The manifest information requirements specified herein are only applicable until September 20, 1984. On September 20, 1984 and thereafter, manifests must be in the form and must contain the information required by (b) of this subsection. The manifest shall contain at least the following information:

(i) A manifest document number;

(ii) The generator's name, address, telephone number, and EPA/state identification number;

(iii) The name, address, telephone number, and EPA/state identification number of each transporter used;

(iv) The name, address, and EPA/state identification number of the designated receiving facility (such facility must be permitted to handle the waste identified on the

manifest) and, if the generator so chooses, of an alternate facility permitted to handle the waste in the event an emergency prevents delivery to the primary designated receiving facility;

(v) The total quantity of each dangerous waste, and the type and number of containers identified by units of weight or volume to be received by the transporter;

(vi) The description of the waste(s) as required by United States Department of Transportation (DOT) regulations, 49 CFR 172.101, 172.202, and 172.203, and, when such information would be useful in the event of a spill or discharge during transport, the approximate percentages of each waste component;

(vii) Measures to be taken in case of accident, the National Response Center phone number, 1-800-424-8802, and the CHEM-TREC phone number, 1-800-424-9300;

(viii) Such other information as required by the department to implement chapter 70.105 RCW; and

(ix) The following certification, or an equivalent certification, on the manifest:

"This is to certify that the above named materials are properly designated, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation, EPA, and the Washington state department of ecology."

(b) Uniform dangerous waste manifest. The requirements specified herein are applicable to all manifests used on and after September 20, 1984. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest shall be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262, and in addition must contain the following information in the specified shaded items of the uniform manifest:

(i) Item D - The first transporter's telephone number must be provided in this space;

(ii) Item F - If a second transporter is used, then the second transporter's telephone number must be provided in this space;

(iii) Item H - The designated receiving facility's telephone number must be provided in this space; and

(iv) Item I - The dangerous waste number (e.g., F001, D006, WT02, P102) must be provided in this space for each corresponding waste entered and described under Item 11.

(2) The manifest shall consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator shall:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator shall give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford shall notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator shall not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-180, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-180, filed 2/10/82. Formerly WAC 173-302-180 and 173-302-190.]

**WAC 173-303-190 Preparing dangerous waste for transport.** The generator shall fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator shall package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179.

(2) Labeling. The generator shall label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator shall:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or equivalent words and information, displayed in accordance with 49 CFR 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator's Name and Address

.....  
.....  
.....

Manifest Document Number

.....

(4) Placarding. The generator shall placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-190, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-190, filed 2/10/82.]

**WAC 173-303-200 Accumulating dangerous waste on-site.** (1) A generator may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such 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 in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (4), (5), (6), (8), and (9), or the waste is placed in tanks and the generator complies with WAC 173-303-640 (3), (4), (5), (6), and (7), except that in lieu of the "sufficient freeboard" requirement of WAC 173-303-640 (3)(b)(ii) for uncovered tanks, the generator must maintain a minimum freeboard of two feet;

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency

response personnel and the public (Note--If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate); and

(e) The generator complies with the requirements for facility operators contained in WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies): *Provided*, That if none of the dangerous wastes he generates are regulated as EHW under WAC 173-303-081 and no quantity of dangerous wastes he generates in one month or one batch ever exceeds 2200 pounds (1000 kilograms), then the generator need comply with the requirements of WAC 173-303-330 through 173-303-360 only if:

(i) He accumulates dangerous waste on-site for ten or more calendar days; or

(ii) He is directed by the department to so comply, due to potential threats to public health or the environment. In such case, the department may require that he comply with all of or only parts of WAC 173-303-330 through 173-303-360, as necessary to mitigate the potential threats to public health or the environment.

(2) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or

(c) A container used for receiving and accumulating waste(s) is full, provided that:

(i) None of the wastes being accumulated on-site are regulated as EHW pursuant to WAC 173-303-081; and

(ii) The total quantity of all wastes being accumulated on-site does not exceed 2200 pounds prior to the date the container is full. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-200, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-200, filed 2/10/82.]

**WAC 173-303-210 Generator recordkeeping.** (1) The generator shall keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy shall be retained for at least three years from the date the waste was accepted by the initial transporter.

(2) The generator shall keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least three years from the due date of each report.

(3) The generator shall keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste for at least three years from the date that the waste was last transferred for on-site or off-site TSD.

(4) The periods of retention for any records described in this section shall be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-210, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-210, filed 2/10/82.]

**WAC 173-303-220 Generator reporting.** The generator shall submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator who ships any dangerous waste off-site shall submit annual reports to the department, on the Generator Annual Dangerous Waste Report - Form 4 according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site shall comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports concerning the quantities and disposition of his dangerous waste. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-220, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-220, filed 2/10/82.]

**WAC 173-303-230 Special conditions.** (1) Exporting dangerous waste.

(a) The requirements of 40 CFR, Section 262.50 (a), (b) and (c), International Shipments, are adopted by reference.

(b) Copies of any exception reports submitted to the administrator of United States EPA shall be submitted to the director of the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer shall comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number shall be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) Triple rinsing. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use shall not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and if used to hold EHW, have been triple rinsed according to WAC 173-303-160(4), and either:

(a) The rinsate is not a dangerous waste under this chapter 173-303 WAC; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars shall handle the rinsate according to this chapter, 173-303 WAC, and according to chapter 90.48 RCW, Water pollution control. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-230, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-230, filed 2/10/82.]

**WAC 173-303-240 Requirements for transporters of dangerous waste.** (1) Transporters shall comply with the requirements of WAC 173-303-060, Notification and identification numbers. Transporters who are involved in interstate transport shall use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport shall use the identification number assigned to their

headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport shall obtain a separate generator EPA/state ID# for such spill or terminal.

(2) Any person who transports a dangerous waste shall comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180.

Any person who transports moderate risk waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170 (2)(b)(i), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.

(3) Any person who transports a dangerous waste shall also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(4) These requirements shall not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities.

(5) Transporters may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements. [Statutory Authority: Chapter 70.105 RCW, 84-14-031 (Order DE 84-22), § 173-303-240, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-240, filed 2/10/82. Formerly WAC 173-302-210.]

**WAC 173-303-250 Dangerous waste acceptance, transport, and delivery.** (1) A transporter shall not accept dangerous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with WAC 173-303-180, Manifest.

(2) Before transporting a dangerous waste shipment, the transporter shall sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter shall return a signed copy to the generator before commencing transport.

(3) The transporter shall insure that the manifest accompanies the dangerous waste shipment.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility shall:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter shall deliver the entire quantity of dangerous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6) If the dangerous waste cannot be delivered in accordance with subsection (5) of this section, the transporter shall contact the generator for further directions, and shall revise the manifest according to the generator's instructions.

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility;

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste;

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste at all times.

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States shall:

(a) Indicate on the manifest the date the dangerous waste left the United States;

(b) Sign the manifest and retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping; and

(c) Return a signed copy of the manifest to the generator. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-250, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-250, filed 2/10/82. Formerly WAC 173-302-220 and 173-302-230.]

**WAC 173-303-260 Transporter recordkeeping.** (1) A transporter of dangerous waste shall keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(2) Water (bulk shipment) and rail transporter recordkeeping.

(a) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter shall retain a copy of a shipping paper containing all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(b) For shipments of dangerous waste by rail within the United States:

(i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter; and

(ii) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of

three years from the date the dangerous waste was accepted by the initial transporter.

(3) A transporter who transports dangerous waste out of the United States shall keep a copy of the manifest, indicating that the dangerous waste left the United States, for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the director. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-260, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-260, filed 2/10/82.]

**WAC 173-303-270 Discharges during transport.** In the event of a spill or discharge of dangerous waste during transportation, the transporter shall comply with the requirements of WAC 173-303-145, Spills and discharges into the environment. In addition to the notices required by WAC 173-303-145, the transporter shall provide the following notifications:

(1) Give notice to the generator of the waste that a discharge has occurred;

(2) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15;

(3) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington D.C., 20590; and,

(4) For a water (bulk shipment) transporter, give the same notice as required by 33 CFR 153.203 for oil and hazardous substances. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-270, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-270, filed 2/10/82.]

**WAC 173-303-275 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 173-303-280 General requirements for dangerous waste management facilities.** (1) Applicability. The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which transfer, store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. The owner or operator of a facility which manages moderate risk waste may comply with the special requirements specified in WAC 173-303-550 through 173-303-560 in lieu of the general requirements of WAC 173-303-280 through 173-303-395, but only for those moderate risk wastes which he manages. Owners and operators of transfer or collection facilities shall also comply with the applicable provisions specified in WAC 173-303-275. Whenever a shipment of dangerous waste is initiated from a facility, the owner

or operator of that facility shall comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) Imminent hazard. Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) Identification numbers. Every facility owner or operator shall apply for an EPA/state identification number from the department in accordance with WAC 173-303-060. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-280, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-280, filed 2/10/82.]

**WAC 173-303-290 Required notices.** (1) The facility owner or operator who is receiving dangerous waste from a foreign source shall notify the department in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1). [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-290, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-290, filed 2/10/82.]

**WAC 173-303-300 General waste analysis.** (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator shall obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility shall confirm, by analysis if necessary, that each dangerous

waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis shall be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator shall develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste will be analyzed, and the rationale for selecting these parameters;

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(g) For off-site facilities, the procedures for confirming that each dangerous waste received matches the identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:

(i) The procedures for identifying each waste movement at the facility; and

(ii) The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-300, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-300, filed 2/10/82.]

**WAC 173-303-310 Security.** (1) The owner or operator shall comply with the requirements of this section, unless he can demonstrate to the department that:

(a) Physical contact with wastes or equipment within the active portion of the facility will not injure persons or livestock; and

(b) Disturbance of the wastes or equipment within the active portion of the facility by persons or livestock will not result in violations of this chapter 173-303 WAC.

(2) A facility must have:

(a) Signs posted at each entrance to the active portion, and at other locations, in sufficient numbers to be seen from any approach to the active portion. Signs must bear the legend, "Danger—unauthorized personnel keep out," or an equivalent legend, written in English, and must be legible from a distance of twenty-five feet or more; and either

(b) A 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility; or

(c) An artificial or natural barrier, or a combination of both, which completely surrounds the active portion of the facility, with a means to control access through gates or other entrances to the active portion of the facility at all times.

(3) In lieu of WAC 173-303-310(2), above, the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit (as defined in WAC 173-303-040) must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the totally enclosed treatment facility or the elementary neutralization or wastewater treatment unit. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-310, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-310, filed 2/10/82. Formerly WAC 173-302-290.]

**WAC 173-303-320 General inspection.** (1) The owner or operator shall inspect his 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. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator shall 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:

(a) He must keep the schedule at the facility;

(b) The schedule must identify the types of problems which are to be looked for during inspections;

(c) The schedule shall indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. The inspection schedule shall also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(d) The owner or operator shall keep an inspection log or summary, including at least the date and time of the

inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, 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 three years from the date of inspection.

(3) The owner or operator shall 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. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-320, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-320, filed 2/10/82.]

**WAC 173-303-330 Personnel training.** (1) Training program. The facility owner or operator shall provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter 173-303 WAC, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and shall include those elements set forth in the training plan required in subsection (2) of this section. In addition:

(a) The training program shall be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(b) Facility personnel must participate in an annual review of the training provided in the training program;

(c) This program must be successfully completed by the facility personnel:

(i) Within six months after these regulations become effective; or

(ii) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(d) At a minimum, the training program shall familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program shall include other parameters as set forth by the department, but at a minimum shall include, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(ii) Key parameters for automatic waste feed cut-off systems;

(iii) Communications or alarm systems;

(iv) Response to fires or explosions;

(v) Response to ground-water contamination incidents; and

(vi) Shutdown of operations.

(2) Written training plan. The owner or operator shall develop a written training plan which must be kept at



the facility and which must include the following documents and records:

(a) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications, and duties for each position;

(b) A written description of the type and amount of both introductory and continuing training required for each position; and

(c) Records documenting that facility personnel have received and completed the training required by this section.

(3) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-330, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-330, filed 2/10/82. Formerly WAC 173-302-320.]

**WAC 173-303-340 Preparedness and prevention.** Facilities shall be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, or surface or ground water which could threaten the public health or the environment. This section describes preparations and preventive measures which help avoid or mitigate such situations.

(1) Required equipment. All facilities must be equipped with the following, unless it can be demonstrated to the department that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction to facility personnel;

(b) A device, such as a telephone 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;

(c) Portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

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.

(2) Access to communications or alarms. Personnel must have immediate access to the signalling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate 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 subsection (1) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, he 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 (1) of this section.

(3) Aisle space. The owner or operator 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.

(4) Arrangements with local authorities. The owner or operator shall attempt to make the following arrangements, as appropriate for the type of waste handled at his 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) 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;

(b) 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;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(d) 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.

(5) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-340, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-340, filed 2/10/82.]

**WAC 173-303-350 Contingency plan and emergency procedures.** (1) Purpose. The purpose of this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air,

soil, surface water, or ground water by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency circumstances, and the plan shall be implemented immediately in such emergency circumstances.

(2) Contingency plan. Each owner or operator must have a contingency plan at his facility for use in emergencies or sudden or nonsudden releases which threaten the public health and the environment. If the owner or operator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section and WAC 173-303-360.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-360;

(b) A description of the actions which shall be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services;

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810 (14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator shall review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations or the facility permit are revised;

(b) The plan fails in an emergency;

(c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-350, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-350, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-360 Emergencies.** (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures shall be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and a real extent of any released materials.

(c) Concurrently, the emergency coordinator shall assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(vii) Estimated quantity and disposition of recovered material that resulted from the incident. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-360, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-360, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-370 Manifest system.** (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually

receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following shall be acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator shall take those actions described in the contingency plan, WAC 173-303-350 (3)(b). [Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-370, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-370, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-380 Facility recordkeeping.** (1) Operating record. The owner or operator of a facility shall keep a written operating record at his facility. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses required by WAC 173-303-300, General waste analysis;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for three years);

(f) Monitoring, testing, or analytical data where required by 40 CFR Part 265 Subparts F through R for interim status facilities, and by WAC 173-303-630 through 173-303-670 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility; and

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices.

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information shall be kept in the operating record, as follows:

(a) Each dangerous waste received shall be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed then the waste description shall include the process which generated the waste;

(b) The waste description shall include the waste's physical form (i.e., liquid, solid, sludge, or gas);

(c) The weight, or volume and density, of the dangerous waste shall be recorded, using one of the units of measure specified in Table 1, below;

TABLE 1

Unit of Measure	Symbol	Density
Pounds	P	
Short tons (2000 lbs)	T	
Gallons (U.S.)	G	P/G
Cubic yards	Y	T/Y

TABLE 1

Unit of Measure	Symbol	Density
Kilograms . . . . .	K	
Tonnes (1000 kg) . . . . .	M	
Liters . . . . .	L	K/L
Cubic meters . . . . .	C	M/C

(d) And, the date(s) and method(s) of management for each dangerous waste received shall be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2

1. Storage
  - S01 Container (barrel, drum, etc.)
  - S02 Tank
  - S03 Waste pile
  - S04 Surface impoundment
  - S05 Other (specify)
2. Treatment
  - (a) Thermal treatment
    - T06 Liquid injection incinerator
    - T07 Rotary kiln incinerator
    - T08 Fluidized bed incinerator
    - T09 Multiple hearth incinerator
    - T10 Infrared furnace incinerator
    - T11 Molten salt destructor
    - T12 Pyrolysis
    - T13 Wet air oxidation
    - T14 Calcination
    - T15 Microwave discharge
    - T16 Cement kiln
    - T17 Lime kiln
    - T18 Other (specify)
  - (b) Chemical treatment
    - T19 Absorption mound
    - T20 Absorption field
    - T21 Chemical fixation
    - T22 Chemical oxidation
    - T23 Chemical precipitation
    - T24 Chemical reduction
    - T25 Chlorination
    - T26 Chlorinolysis
    - T27 Cyanide destruction
    - T28 Degradation
    - T29 Detoxification
    - T30 Ion exchange
    - T31 Neutralization
    - T32 Ozonation
    - T33 Photolysis
    - T34 Other (specify)
  - (c) Physical treatment
    - (i) Separation of components
      - T35 Centrifugation
      - T36 Clarification
      - T37 Coagulation
      - T38 Decanting
      - T39 Encapsulation
      - T40 Filtration

- T41 Flocculation
- T42 Flotation
- T43 Foaming
- T44 Sedimentation
- T45 Thickening
- T46 Ultrafiltration
- T47 Other (specify)
  - (ii) Removal of specific components
- T48 Absorption—molecular sieve
- T49 Activated carbon
- T50 Blending
- T51 Catalysis
- T52 Crystallization
- T53 Dialysis
- T54 Distillation
- T55 Electrolysis
- T56 Electrolysis
- T57 Evaporation
- T58 High gradient magnetic separation
- T59 Leaching
- T60 Liquid ion exchange
- T61 Liquid-liquid extraction
- T62 Reverse osmosis
- T63 Solvent recovery
- T64 Stripping
- T65 Sand filter
- T66 Other (specify)
  - (d) Biological treatment
    - T67 Activated sludge
    - T68 Aerobic lagoon
    - T69 Aerobic tank
    - T70 Anaerobic lagoon or tank
    - T71 Composting
    - T72 Septic tank
    - T73 Spray irrigation
    - T74 Thickening filter
    - T75 Trickling filter
    - T76 Waste stabilization pond
    - T77 Other (specify)
    - T78-79 (Reserved)

3. Disposal
  - D80 Underground injection
  - D81 Landfill
  - D82 Land treatment
  - D83 Ocean disposal
  - D84 Surface impoundment
    - (to be closed as a landfill)
  - D85 Other (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the

United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-380, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-380, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-390 Facility reporting.** The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Waste Report - Form 5 (which may be obtained from the department) must be used for this report. The report must include the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/state identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator shall prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the TSD Facility Annual Dangerous Waste Report - Form 5 (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator shall also report to the department releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k) and interim status groundwater monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2).

In addition, the owner or operator shall submit any other reports required by the department. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-390, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-390, filed 2/10/82.]

**WAC 173-303-395 Other general requirements.** (1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the facility or device containing the waste; or

(v) Through other like means, threaten human health or the environment.

(c) When required to comply with (a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results

of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator shall inspect those areas of his facility where ignitable or reactive wastes are stored. This inspection shall be performed in the presence of a professional person who is familiar with the Uniform Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator shall enter the following information in his inspection log or operating record as a result of this inspection:

- (i) The date and time of the inspection;
- (ii) The name of the professional inspector or fire marshal;
- (iii) A notation of the observations made; and
- (iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator shall design, maintain and operate his dangerous waste facility in compliance with all applicable federal, state and local laws and regulations (e.g., control of stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) Asbestos dangerous waste disposal requirements. All asbestos containing waste material shall be disposed of at waste disposal sites which are operated in accordance with 40 CFR Part 61 Subpart M. Such sites will not need to comply with any other standards of chapter 173-303 WAC, if they comply with 40 CFR Part 61 Subpart M.

(4) Loading and unloading areas. TSD facilities which receive manifested shipments of liquid dangerous waste for treatment, storage or disposal must provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

- (a) Contain spills and leaks that might occur during loading or unloading;
- (b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;
- (c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and
- (d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.

(5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste shall not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit, for waste regulated under this chapter and being stored in impoundments or piles on the effective date of this requirement, will begin on August 1, 1984. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying

with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

- (i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;
- (ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile shall be deemed the same age as the oldest waste in the impoundment or pile;
- (iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;
- (iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;
- (v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and
- (vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing a recycling or treatment process for the wastes stored in his impoundment or pile, then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will only apply to those dangerous wastes covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department, and will not exceed five years: *Provided*, That on a case-by-case basis the department may grant an extension of longer than five years, but in no case will any extension be granted for longer than ten years, if the owner/operator of the impoundment or pile can demonstrate to the department's satisfaction that an extension of more than five years will not pose a threat to public health or the environment, and is necessary because: Other treatment or recycling options of shorter durations are not available; the treatment or recycling plan developed by the owner/operator cannot be implemented within five years due to technological circumstances; or, such other reasons as are determined acceptable by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan and schedule, at a minimum, must:

- (i) Specify the wastes which will be recycled or treated in accordance with the plan;
- (ii) Describe in detail the recycling or treatment which the owner/operator intends to perform. If the recycling or treatment will involve physical changes to the owner's/operator's facility, the plan must include descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;

(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;

(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:

(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;

(B) Construction and equipment installation times as appropriate;

(C) Timing for complying with all required permit actions; and

(D) Such other elements as the department might require;

(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;

(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause him to fail to comply with his recycling or treatment plan. The owner/operator must also describe what actions he would take in the event that such occurrences or situations happen;

(vii) Be approved by the department. The plan shall not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and

(viii) Include any other elements that the department might require.

(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:

(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or other wise treat dangerous waste; or

(ii) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment, recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

(iii) The owner/operator of a surface impoundment or waste pile has demonstrated, through his permit, closure plan or other instrument, that the impoundment or pile is being operated as a land disposal unit and that it will be closed as a landfill. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-395, filed 6/27/84. Statutory Authority: Chapter

70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-395, filed 2/10/82.]

**WAC 173-303-400 Interim status facility standards.** (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status shall apply to all facilities which comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. Interim status shall end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(7).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Persons disposing of dangerous waste by underground injection which is permitted under the Safe Drinking Water Act;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes;

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise; and

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(d) The owner or operator of an interim status facility which manages moderate risk waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those moderate risk wastes which he manages and only after



the owner or operator has requested and the department has issued a notice of interim status modification.

(3) Standards.

(a) Interim status standards shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Subparts F through R which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter 173-303 WAC), the general requirements for dangerous waste management facilities, WAC 173-303-280 through 173-303-395, and the applicable requirements of WAC 173-303-420, Siting standards, 173-303-430, Performance standards, and 173-303-440, Buffer monitoring zones.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R to the state of Washington facilities, the federal terms shall have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, shall be replaced with) the following state of Washington meanings:

(i) "Regional administrator" shall mean the "department";

(ii) "Hazardous" shall mean "dangerous"; and

(iii) "Compliance procedure" shall have the meaning set forth in WAC 173-303-040, Definitions.

(c) In addition to the changes described in (b) of this subsection, the following modifications shall be made to interim status standards of 40 CFR Part 265 Subparts F through R:

(i) The words "the effective date of these regulations" shall mean:

(A) November 19, 1981, for facilities which manage any wastes designated by 40 CFR Part 261; and

(B) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-103 and not designated by 40 CFR Part 261;

(ii) "Subpart N - landfills" shall have an additional section added which reads: "An owner/operator shall not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 to 173-303-103, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" shall have an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-103";

(iv) "Subpart M - land treatment," section 165.273(b) shall be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) shall include the requirement that: "Ground-water monitoring wells shall be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells"; and

(vi) "Subpart H - financial requirements" shall have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H." [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-400, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-400, filed 2/10/82.]

**WAC 173-303-420 Siting standards.** (1) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.

(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.

(3) Earthquake fault criteria.

(a) Active portions of new TSD facilities will not be located within 200 feet of a fault which has had displacement in Holocene times. For facilities managing moderate risk waste only, engineering efforts, as approved by the department, may be substituted for the 200-foot buffer zone.

(b) As used in (a) of this subsection:

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection.

Chelan	Grant	Lewis	Skagit
Clallam	Grays Harbor	Mason	Skamania
Clark	Jefferson	Okanogan	Snohomish
Cowlitz	King	Pacific	Thurston
Douglas	Kitsap	Pierce	Wahkiakum
Ferry	Kittitas	San Juan	Whatcom
			Yakima

(4) Floodplain criteria.

(a) A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a 100-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a 100-year flood. Contingency procedures

for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:

(i) "100-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW).

(a) Areas defined as "wetlands" under RCW 90.58-.030 (2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523). [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-420, filed 4/18/84.]

**WAC 173-303-430 Performance standards.** (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) Degradation of ground water quality;
- (b) Degradation of air quality by open burning or other activities;
- (c) Degradation of surface water quality;
- (d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and

(i) Endangerment of the health of employees, or the public near the facility. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-430, filed 4/18/84.]

**WAC 173-303-440 Buffer monitoring zones.** (1) Buffer zones.

(a) The owner/operator of a dangerous waste facility which treats or stores ignitable or reactive waste, except for those reactive wastes with buffer zones specified in (b) of this subsection in covered tanks must treat or store his ignitable waste in a manner equivalent with the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of *The Flammable and Combustible Liquids Code-1981*.

(b) The owner/operator of a dangerous waste facility which treats or stores reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must provide a buffer zone for his reactive waste equivalent with the Uniform Fire Code's *American Table of Distances for Storage of Explosives*, Table 77-201, 1979 edition. Where this requirement conflicts with the buffer zone of (a) of this subsection, the larger of the two buffer zones determined under (a) and (b) of this subsection must be used.

(c) Within the practical limits of the best available management technology, the owner/operator of a new dangerous waste impoundment, pile, landfarm, or landfill should attempt to locate his facility so that the travel time (as defined in WAC 173-303-040) from the active portion of the facility to the nearest downstream well or surface water used for drinking purposes is at least:

- (i) Three years, for DW; and
- (ii) Ten years, for EHW.

(2) Monitoring zones.

(a) The owner/operator of a new dangerous waste facility handling DW only may at his discretion provide a monitoring zone around surface impoundment, waste pile, land treatment, and landfill areas as follows:

$$D = \frac{wv}{N} \text{ (ft)}$$

Where

- D = the minimum width of the monitoring zone
  - w = 3, a constant
  - v = velocity of surface soil migration, ft/yr
  - N = number of times the surface soil is sampled at one spot in a year.
- Samples shall be taken a distance of

$S = D$  (ft) from the active portion of the facility

—  
w

Where

$D$  = the monitoring zone width in feet and  
 $w = 3$ .

(b) The same monitoring zone determinations may be made for new facilities handling EHW, except that the value  $W = 10$  shall be used.

(c) Additional information and assistance on choosing monitoring zones is available from the department. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-440, filed 4/18/84.]

**WAC 173-303-500 Special requirements for recycled dangerous waste.** (1) Unless a recycled dangerous waste has less stringent operational requirements specified in WAC 173-303-505 through 173-303-520, all generation, transportation and recycling of dangerous waste is subject to the requirements specified in WAC 173-303-120.

(2) The department may, on a case-by-case basis, determine that generators, transporters and/or recyclers regulated by WAC 173-303-505 through 173-303-520 are overaccumulating the dangerous waste prior to recycling (as this practice is described in WAC 173-303-121), or otherwise pose a threat to public health or the environment and therefore should be subject to the requirements under WAC 173-303-120. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-500, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-500, filed 2/10/82.]

**WAC 173-303-505 Special requirements for recycled moderate risk waste.** In lieu of the requirements described in WAC 173-303-510 through 173-303-520, persons who generate, transport or recycle moderate risk waste as defined in WAC 173-303-040 may for such moderate risk waste only, comply with the requirements for moderate risk waste described in:

- (1) WAC 173-303-170(2) for generators;
- (2) WAC 173-303-240 for transporters; and
- (3) WAC 173-303-550 through 173-303-560 for facilities. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-505, filed 4/18/84.]

**WAC 173-303-510 Special requirements for certain recycled characteristic dangerous wastes.** (1) This section applies only to those dangerous wastes which are not also designated as hazardous waste under 40 CFR Part 261 Subpart D or, if sludges (as defined in WAC 173-303-040(81)), are not also designated as hazardous waste under 40 CFR Part 261, provided that, this section does apply to such hazardous wastes if they are subject only to the small quantity generator requirements of 40 CFR 261.5. Generators, transporters and recycling facilities who handle dangerous waste in a

manner described in this subsection, are subject to the requirements described in subsection (2) of this section:

(a) Wastes that are dangerous solely because they exhibit the ignitability characteristics of WAC 173-303-090(5), or the reactivity characteristics of WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) or (viii) and that are either stored at facilities producing fuels for their own subsequent use or stored by facilities that ultimately burn these wastes or waste derived fuels containing these wastes;

(b) Byproducts designated by the ignitability characteristics of WAC 173-303-090(5), or the reactivity characteristics of WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) or (viii) only that are burned for energy recovery or used to produce fuels; and

(c) Byproducts designated by one or more characteristics (WAC 173-303-090) only that are reclaimed.

(2) All generators, transporters, and recyclers who handle dangerous wastes that are recycled or held for recycling in a manner described in subsection (1) of this section, are subject to the following requirements:

- (a) WAC 173-303-060, notification for all persons;
- (b) WAC 173-303-145, spills and discharges for all persons;
- (c) WAC 173-303-220(1), annual report for generators only; and
- (d) WAC 173-303-390(2), annual report for facilities only. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-510, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-510, filed 2/10/82.]

**WAC 173-303-515 Special requirements for recycling of dangerous waste pursuant to nonbatch tolling agreements.** (1) This section applies only to those dangerous wastes which are not also designated as hazardous waste under 40 CFR Part 261 Subpart D or, if sludges (as defined in WAC 173-303-040(81)), are not also designated as hazardous waste under 40 CFR Part 261, provided that, this section does apply to such hazardous wastes if they are subject only to the small quantity generator requirements of 40 CFR 261.5. The requirements listed in subsection (2) of this section apply to generators, and transporters of dangerous waste being reclaimed pursuant to nonbatch tolling agreements. The requirements listed in subsection (3) of this section apply to owners, or operators of facilities that store recycled dangerous waste pursuant to nonbatch tolling agreements. For the purposes of this section, "nonbatch tolling agreement" is a contractual agreement pursuant to which the person generating the dangerous waste transfers the waste to a reclaimer who returns material reclaimed from the waste to the person generating the dangerous waste.

(2) Generators and transporters of recycled dangerous waste reclaimed pursuant to nonbatch tolling agreements and who are not exempted by WAC 173-303-017 or regulated under WAC 173-303-120 are subject to the following requirements:

- (a) Generators:

- (i) WAC 173-303-060;
- (ii) WAC 173-303-190;
- (iii) WAC 173-303-200;
- (iv) WAC 173-303-210 except for subsection (1);
- (v) WAC 173-303-220 except for subsection (2); and
- (vi) WAC 173-303-230; and

(b) Transporters:

- (i) WAC 173-303-060;
- (ii) WAC 173-303-240 (3) and (4); and
- (iii) WAC 173-303-270.

(3) Facilities. Owners or operators of facilities that store dangerous waste being reclaimed pursuant to nonbatch tolling agreements are subject to the following requirements:

(a) Reclaiming facilities that have an interim status permit:

- (i) 40 CFR Part 265 Subpart A;
- (ii) 40 CFR Part 265 Subpart B except for 265.13;
- (iii) 40 CFR Part 265 Subpart C;
- (iv) 40 CFR Part 265 Subpart D;
- (v) 40 CFR Part 265 Subpart E except for 265.71 and 265.72;
- (vi) 40 CFR Part 265 Subparts F through L; and
- (vii) All applicable requirements of WAC 173-303-800 through 173-303-840 that are applicable to interim status permits;

(b) Reclaiming facilities that have a final facility permit:

- (i) WAC 173-303-280 (2) and (3);
- (ii) WAC 173-303-290;
- (iii) WAC 173-303-310 through 173-303-360;
- (iv) WAC 173-303-380 except for subsection (1)(h);
- (v) WAC 173-303-390 (2) and (3);
- (vi) WAC 173-303-395;
- (vii) WAC 173-303-610 through 173-303-650;
- (viii) WAC 173-303-660; and
- (ix) All applicable requirements of WAC 173-303-800 through 173-303-840 that are applicable to final facility permits. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-515, filed 6/27/84.]

**WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes.** This section applies only to those dangerous wastes which are not also designated as hazardous waste under 40 CFR Part 261 Subpart D or, if sludges (as defined in WAC 173-303-040(81)), are not also designated as hazardous waste under 40 CFR Part 261, provided that, this section does apply to such hazardous wastes if they are subject only to the small quantity generator requirements of 40 CFR 261.5.

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are not subject to the requirements of this chapter if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

(a) For reclaiming facilities with an interim status permit:

- (i) 40 CFR Part 265 Subpart A;
- (ii) 40 CFR Part 265 Subpart B except for 265.13;
- (iii) 40 CFR Part 265 Subpart C;
- (iv) 40 CFR Part 265 Subpart D;
- (v) 40 CFR Part 265 Subpart E except for 265.71 and 265.72;

(vi) 40 CFR Part 265 Subpart F through L; and

(vii) All requirements of WAC 173-303-800 through 173-303-840 that are applicable to interim status permits;

(b) For reclaiming facilities with a final facility permit:

- (i) WAC 173-303-280 (2) and (3);
- (ii) WAC 173-303-290;
- (iii) WAC 173-303-310 through 173-303-360;
- (iv) WAC 173-303-380 except for subsection (1)(h);
- (v) WAC 173-303-390 (2) and (3);
- (vi) WAC 173-303-395;
- (vii) WAC 173-303-610 through 173-303-650;
- (viii) WAC 173-303-660; and
- (ix) All requirements of WAC 173-303-800 through 173-303-840 that are applicable to final facility permits. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-520, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-520, filed 2/10/82.]

**WAC 173-303-550 Special requirements for facilities managing moderate risk waste.** (1) Purpose. Moderate risk wastes (as defined in WAC 173-303-040(55)) pose less risk to public health and the environment than do other dangerous wastes, therefore, they do not require as high a level of regulation. The purpose of WAC 173-303-550 through 173-303-560 is to set forth those mandatory standards which are minimally acceptable for managing moderate risk waste, and the criteria and selective standards which will be applied based on the specific risks posed by such wastes.

(2) Applicability. The requirements of WAC 173-303-550 through 173-303-560 apply to owners and operators of facilities which manage moderate risk waste, and are only applicable to such moderate risk wastes as are being managed. Whenever a moderate risk waste is shipped from a facility, the owner or operator must comply with WAC 173-303-170 through 173-303-230, requirements for generators.

(3) Standards. The owner/operator of a facility managing moderate risk wastes must comply with all applicable standards of this chapter unless he requests (as described in subsection (4) of this section) and the department approves (as described in subsection (5) of this section) the application of less stringent standards to his facility. The owner/operator may request relief from any standards except those minimum standards specified in WAC 173-303-560. Failure to comply with an approval issued by the department pursuant to subsection (5) of this section, will be a violation of this chapter. Failure to comply with all applicable requirements of this chapter while the department is considering a request or after a

request has been denied will be a violation of this chapter.

(4) Request. The owner/operator may request that less stringent standards be applied to his moderate risk waste management activities in any manner or form that he chooses. His request must be submitted in writing to the department, and must include:

(a) The facility name, EPA/state identification #, address, telephone number, and a contact person at the facility;

(b) The moderate risk waste(s) managed at the facility and the type(s) of management applied to them;

(c) The specific standards from which the owner/operator seeks relief;

(d) A description, for each standard, demonstrating:

(i) Why the owner/operator believes the standard to be unnecessary;

(ii) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(iii) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(e) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required by this subsection may result in the department's denying the owner's/operator's request.

(5) Approval or denial. The department will review any requests submitted pursuant to subsection (4) of this section, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the owner/operator of its decision in writing. Approval of a request will not be final until the permit has been modified or issued as described in (a) or (b) of this subsection. If the department decides to approve all or part of the request and the owner/operator agrees with the department's decision, then the department will proceed to grant such approval as follows:

(a) Interim status facilities. For a facility which qualifies for interim status (as described in WAC 173-303-805), the department shall issue a notice of interim status modification in accordance with WAC 173-303-805(8) stating what standards the owner/operator must meet;

(b) Final facilities.

(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.

(ii) The department may request that an applicant for a final facility permit submit his planned moderate risk demonstrations (prepared in accordance with subsection (4) of this section) a maximum of three months prior to submittal of his Part B application. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-550, filed 4/18/84.]

**WAC 173-303-560 Minimum standards for facilities managing moderate risk waste.** In no case will the department approve standards for facilities managing moderate risk waste which do not include, at a minimum, the following applicable requirements:

(1) WAC 173-303-060;

(2) WAC 173-303-350;

(3) WAC 173-303-360;

(4) WAC 173-303-370;

(5) WAC 173-303-380;

(6) WAC 173-303-390; and

(7) WAC 173-303-430. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-560, filed 4/18/84.]

**WAC 173-303-575 (Reserved.)** [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-575, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-575, filed 2/10/82.]

**WAC 173-303-600 Final facility standards.** Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-303-280 through 173-303-395, and 173-303-420 through 173-303-440.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the Underground Injection Control Program of the Safe Drinking Water Act, except that storage, or

treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-301 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160(4);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages moderate risk waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those moderate risk wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-520 in lieu of the final facility standards. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-600, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-600, filed 2/10/82.]

**WAC 173-303-610 Closure and postclosure. (1) Applicability.**

(a) Subsections (2) to (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) to (10) of this section, (which concern postclosure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040(75)) at which dangerous waste will remain after closure, to surface impoundments and waste piles as specified in WAC 173-303-650(6) and 173-303-660(9), and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and postclosure requirements, any portion of a facility which closes is subject to the applicable closure and postclosure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to prevent threats to human health and the environment, postclosure escape of dangerous waste, dangerous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), or 173-303-670(8) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) Background environmental levels, for any dangerous waste, managed at the facility, which either is listed under WAC 173-303-081 or 173-303-082 or is designated by the characteristics of WAC 173-303-090; and

(ii) At least the designation limits of WAC 173-303-084, or 173-303-101 through 173-303-103 for any dangerous waste, managed at the facility, which is not listed under WAC 173-303-081 or 173-303-082 and is not designated by the characteristics of WAC 173-303-090. In addition to these limits, the department may specify in the closure plan for a facility any lower limits for removal or decontamination which the department deems appropriate.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance proceeding under WAC 173-303-840. The approved closure plan will become a condition of any permit. The

department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include at least:

(i) A description of how and when the facility will be partially closed, if applicable, and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility and how the requirements of subsections (2) to (6) of this section, and the applicable closure requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8) will be met;

(ii) An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iii) A description of the steps needed to decontaminate facility equipment during closure; and

(iv) An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.)

(b) The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically managed on-site or received from off-site.) The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time. If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within sixty days after the change in plans or design occurs.

(c) The owner or operator must notify the department at least one hundred eighty days prior to the date he expects to begin closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, the owner or operator must treat, remove from the site, or dispose of on site, all

dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The facility has the capacity to receive additional wastes;

(B) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete closure activities in accordance with the approved closure plan within one hundred eighty days after receiving the final volume of wastes. The department may approve a longer closure period if the owner or operator demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, and either:

(i) The closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii) (A) The facility has the capacity to receive additional wastes;

(B) There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(C) Closure of the facility would be incompatible with continued operation of the site.

(5) Disposal or decontamination of equipment. When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all dangerous waste and residues.

(6) Certification of closure. When closure is completed, the owner or operator must submit to the department certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.

(7) Postclosure care and use of property.

(a) Postclosure care must continue for thirty years after the date of completing closure and must consist of at least the following:

(i) Ground water monitoring and reporting as applicable; and

(ii) Maintenance of monitoring and waste containment systems as applicable.

(b) During the one hundred eighty-day period preceding closure (see subsection (3)(c) of this section) or at any time thereafter, the department may reduce the postclosure care period to less than thirty years if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the facility is secure).

Prior to the time that the postclosure care period is due to expire the department may extend the postclosure care period if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of waste at levels which may be harmful to human health and the environment).

(c) The department may require, at closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period after the date of completing closure when:

(i) Wastes may remain exposed after completion of closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health or may disturb the postclosure monitoring or waste containment systems.

(d) Postclosure use of property on or in which dangerous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a disposal facility must have a written postclosure plan. In addition, certain piles and certain surface impoundments are required by WAC 173-303-650 and 173-303-660, respectively, to have written postclosure plans. The plan must be submitted with the permit application in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance proceeding under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued. The department's decision must assure that the approved postclosure plan is consistent with subsections (7), (8), (9), and (10) of this section, and the applicable requirements of WAC 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). A copy of the approved plan and all revisions to the plan must be kept at the facility until the postclosure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) The integrity of the cap and final cover or other containment structures where applicable; and

(B) The function of the facility monitoring equipment;

(iii) And the name, address, and phone number of the person or office to contact about the disposal facility

during the postclosure period. This person or office must keep an updated postclosure plan during the postclosure period.

(b) The owner or operator may amend his postclosure plan at any time during the active life of the disposal facility or during the postclosure care period. The owner or operator must amend his plan whenever changes in operating plans or facility design, or events which occur during the active life of the facility or during the postclosure period, affect his postclosure plan. He must also amend his plan whenever there is a change in the expected year of closure.

(c) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design which affects the postclosure plan, modification of the postclosure plan must be requested at the same time. In all other cases the request for modification of the postclosure plan must be made within sixty days after the change in operating plans or facility design or the events which affect his postclosure plan occur.

(9) Notice to local land authority. Within ninety days after closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in subsection (7)(d) of this section. In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or area of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records he has kept (including, but not limited to, records kept in compliance with 40 CFR Part 265). Any changes in the type, location, or quantity of dangerous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the department.

(10) Notice in deed to property.

(a) The owner of the property on which a disposal facility is located must record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage dangerous wastes;



(ii) Its use is restricted under subsection (7)(d) of this section; and

(iii) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or area of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department.

(b) If at any time the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-610, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-610, filed 2/10/82.]

**WAC 173-303-620 Financial requirements. (1) Applicability.**

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply only to owners and operators of dangerous waste disposal facilities, and piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section.

(c) States and the federal government are exempt from the requirements of this section, except that operators of facilities who are under contract with the state or federal government must meet the requirements of this section.

(2) Definitions. As used in this section, the following listed or referenced terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f) and (g) are adopted by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a)).

(b) The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan increases the cost of closure.

(c) The owner or operator must adjust the closure cost estimate for inflation within thirty days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in (c) (i) and (ii) of this subsection, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.143.

(5) Cost estimate for postclosure monitoring and maintenance.

(a) The owner or operator of a facility subject to postclosure monitoring or maintenance requirements

must have a written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required by WAC 173-303-610.

(b) The owner or operator must prepare a new annual postclosure cost estimate whenever a change in the postclosure plan increases the cost of postclosure care.

(c) During the operating life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within thirty days after each anniversary of the date on which the first postclosure cost estimate was prepared. The adjustment must be made as specified in (c)(i) and (ii) of this subsection using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted postclosure cost estimate.

(6) Financial assurance for postclosure monitoring and maintenance.

(a) An owner or operator of a facility subject to postclosure monitoring or maintenance requirements must establish financial assurance for postclosure care in accordance with the approved postclosure care plan. He must choose from the following options or combination of options:

(i) Postclosure trust fund;

(ii) Surety bond guaranteeing payment into a postclosure trust fund;

(iii) Surety bond guaranteeing performance of postclosure care;

(iv) Postclosure letter of credit;

(v) Postclosure insurance; or

(vi) Financial test and corporate guarantee for postclosure care.

(b) In satisfying the requirements of financial assurance for facility postclosure care in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.145.

(7) Use of a mechanism for financial assurance of both closure and postclosure care. An owner or operator may satisfy the requirements for financial assurance for

both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) or, when applicable, (f).

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040(75)) used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b) or, when applicable, (f).

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the

facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040(75)), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section shall contain the wording specified by 40 CFR 264.151, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the word "department";

(b) The words "hazardous waste" must be replaced with the words "dangerous waste"; and

(c) Any other words specified by the department shall be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-620, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-

33), § 173-303-620, filed 2/10/82. Formerly WAC 173-302-340.]

**WAC 173-303-630 Use and management of containers.** (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator 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.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) 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.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum 25 year storm of 24 hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base

must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that both, do not contain free liquids, and do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), need not have a containment system as described in this subsection: *Provided, That:*

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) EHW in containers must be protected from the elements by means of a building or other protective covering that otherwise allows adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) 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 the Uniform Fire Code's "*American Table of Distances for Storage of Explosives*," Table 77-201, 1979 edition.

(b) The owner or operator shall design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, "*Flammable and Combustible Liquids Code*," shall be used. The owner/operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) 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.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) 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 shall be separate.

(10) Closure. 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. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-630, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-630, filed 2/10/82.]

**WAC 173-303-640 Tanks. (1) Applicability.**

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tanks to treat or store dangerous waste, except as (b) and (c) of this subsection provides otherwise.

(b) Facilities shall not treat or store dangerous waste in covered underground tanks that cannot be entered for inspection, unless such tanks are used for treating or storing only moderate risk wastes (as defined in WAC 173-303-040(55)) and can be externally inspected or have secondary containment structures that allow for monitoring, containment and removal of leaks or can be tested for leakage using methods and testing frequencies approved by the department.

**(2) Design of tanks.**

(a) The owner or operator shall design tanks including the foundation, structural support, seams and pressure controls to assure that they will not collapse or rupture, by providing sufficient shell strength, pressure controls for closed tanks, earthquake resistance etc. The owner/operator shall submit a statement with his permit application specified in WAC 173-303-806(4), stating the basis for selecting minimum shell thickness, such as:

(i) Underwriters Laboratories Inc. standards;

(ii) American Petroleum Institute standards;

(iii) American Concrete Institute standards; or

(iv) American Society of Mechanical Engineers standards.

The statement shall be certified by a licensed professional engineer. The department will review and approve tank design.

(b) New tanks holding dangerous waste shall be constructed above ground and shall be protected against spills, leaks, and precipitation by a containment system which must include an impervious base underlying the tanks in the storage area, unless state or local fire codes require otherwise. The containment system shall have adequate capacity to contain 110 percent of the volume of the largest tank in the storage area and, for uncovered areas, have sufficient capacity to contain additionally

the precipitation of a maximum 25 year storm of 24 hours duration.

(c) All tanks holding dangerous waste shall be marked with labels or signs to identify the waste contained in the tank. The label or sign shall be legible at a distance of at least fifty feet, and shall bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tanks (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate).

(d) All tanks holding EHW which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(3) General operating requirements.

(a) Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion, or abrasion through the use of:

(i) An inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes, or other deterioration; or

(ii) Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).

(b) The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:

(i) Controls to prevent overfilling (e.g., waste feed cut-off system or by-pass system to a standby tank); and

(ii) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or precipitation.

(4) Inspections.

(a) The owner or operator must inspect:

(i) Overfilling control equipment (e.g., waste feed cut-off systems and by-pass 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, level, volume, and temperature gauges) where present, at least once each operating day to ensure that the tank is being operated according to its design;

(iii) For uncovered tanks, the level of waste in the tank, at least once each operating day or before each filling to ensure compliance with subsection (3)(b) of this section;

(iv) The construction materials of the above-ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and

(v) The area immediately surrounding the tank, at least weekly, to detect obvious signs of leakage (e.g., wet spots or dead vegetation).

(b) As part of the inspection schedule required in WAC 173-303-320(2), and the specific requirements of this subsection, the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to

detect cracks, leaks, corrosion, or erosion which may lead to cracks or leaks, or wall thinning to less than the thickness specified in subsection (2) of this section. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the nature of the waste being treated or stored.

(c) As part of the contingency plan required under WAC 173-303-350, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.

(5) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from tanks, discharge control equipment, containment systems and underlying bases (where present), and discharge confinement structures. Any tanks, bases, liners and soils containing or contaminated with dangerous waste or dangerous waste residues must be removed or decontaminated.

(6) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in a tank unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the *Flammable and Combustible Liquids Code* - 1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(7) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-640, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-

33), § 173-303-640, filed 2/10/82. Formerly chapter 173-302 WAC.]

**WAC 173-303-645 Ground water protection. (1) Applicability.**

(a) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator must satisfy the requirements of this section for all wastes (or constituents thereof) contained in any such waste management unit at the facility that is a "regulated unit" (as defined in WAC 173-303-040(75)). Any waste or waste constituent migrating beyond the waste management area under subsection (6)(b) of this section, is assumed to originate from a regulated unit unless the owner or operator can prove to the satisfaction of the department that such waste or waste constituent originated from another source.

(b) The owner or operator is not subject to regulation under this section if:

(i) He designs and operates a surface impoundment in compliance with WAC 173-303-650(3) (except as provided for surface impoundments treating or storing EHW), a pile in compliance with WAC 173-303-660(1)(c), (3), or (4), or a landfill in compliance with WAC 173-303-665(3);

(ii) The department finds, pursuant to WAC 173-303-655(8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the postclosure care period; or

(iii) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the postclosure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610(2)(b);

(ii) Apply during the postclosure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

**(2) Required programs.**

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section;

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, entering the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective

enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the groundwater protection standard in the facility permit when dangerous constituents have entered the groundwater from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a WAC 173-303-9905 or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1. Maximum Concentration of Constituents for Ground Water Protection

Constituent	Maximum Concentration <sup>1</sup>
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1

Constituent	Maximum Concentration <sup>1</sup>
Toxaphene	0.005
2,4-D	0.1
2,4,5-TP Silvex	0.01

<sup>1</sup>Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b) (i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate

that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit; and

(ii) Represent the quality of ground water passing the point of compliance.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata.

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of groundwater quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) Where appropriate, the ground water monitoring program must establish background ground water quality for each of the dangerous constituents or monitoring parameters or constituents specified in the permit.

(i) In the detection monitoring program under subsection (9) of this section, background ground water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

(ii) In the compliance monitoring program under subsection (10) of this section, background ground water



quality for a dangerous constituent must be based on data from upgradient wells that:

- (A) Is available before the permit is issued;
  - (B) Accounts for measurement errors in sampling and analysis; and
  - (C) Accounts, to the extent feasible, for seasonal fluctuations in background ground water quality if such fluctuations are expected to affect the concentration of the dangerous constituent.
- (iii) Background ground water quality may be based on sampling of wells that are not upgradient from the waste management area where:
- (A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or
  - (B) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.
  - (iv) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background ground water quality, each time the system is sampled.

(h) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(i) If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 1.00:

(A) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's *t*-test as described in Appendix IV of 40 CFR Part 264. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(B) The owner or operator may use an equivalent statistical procedure for determining whether a statistically significant change has occurred. The department will specify such a procedure in the facility permit if it finds that the alternative procedure reasonably balances the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in (h)(i)(A) of this subsection; and

(ii) In all other situations in a detection monitoring program and in a compliance monitoring program, the

owner or operator must use a statistical procedure providing reasonable confidence that the migration of dangerous constituents from a regulated unit into and through the aquifer will be indicated. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(B) Provides a reasonable balance between the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to (a) of this subsection. The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values. The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values. The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section. In taking samples used in the determination of background values, the owner or operator must use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section.

(d) The owner or operator must determine ground water quality at each monitoring well at the compliance point at least semiannually during the active life of a regulated unit (including the closure period) and the

postclosure care period. The owner or operator must express the ground water quality at each monitoring well in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8)(d) and (e) of this section.

(g) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to (a) of this subsection, each time he determines ground water quality at the compliance point under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent, according to the statistical procedure specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(h) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase for parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;

(ii) Immediately sample the ground water in all monitoring wells and determine the concentration of all constituents identified in WAC 173-303-9905, and all other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that are present in ground water;

(iii) Establish a background value for each constituent identified in WAC 173-303-9905, and all other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that has been found at the compliance point under (h)(ii) of this subsection, as follows:

(A) The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) In taking samples used in the determination of background values, the owner or operator must use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section;

(iv) Within a maximum of forty-five days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration of any constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section, found in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent found at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek a variance under subsection (5)(b) of this section; and

(v) Within ninety days, submit to the department:

(A) All data necessary to justify any variance sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan necessary to meet the requirements of subsection (11) of this section, unless:

(I) All dangerous constituents identified under (h)(ii) of this subsection, are listed in Table 1 of subsection (5) of this section, and their concentrations do not exceed the respective values given in that table; or

(II) The owner or operator has sought a variance under subsection (5)(b) of this section, for every dangerous constituent identified under (h)(ii) of this subsection.

(i) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase of parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (h)(iv) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (h)(iv) of this subsection, unless the demonstration made under this subsection successfully shows that a source other than

his regulated unit(s) caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase at the compliance point that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and

(iv) Continue to monitor in accordance with the detection monitoring program established under this section.

(j) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(k) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) Where a concentration limit established under (a)(ii) of this subsection, is based on background ground water quality, the department will specify the concentration limit in the permit as follows:

(i) If there is a high temporal correlation between upgradient and compliance point concentrations of the dangerous constituents and parameters, the owner or operator may establish the concentration limit through

sampling at upgradient wells each time ground water is sampled at the compliance point. The department will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the dangerous constituent or parameter;

(ii) If a dangerous constituent from Table 1 under subsection (5) of this section is identified and the difference between the respective concentration limit in Table 1 and the background value of that constituent under subsection (8)(g) of this section is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use an approved statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

(A) Be appropriate for the distribution of the data used to establish background values; and

(B) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference; and

(iii) The owner or operator must:

(A) Comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) Express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) Use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section.

(d) The owner or operator must determine the concentration of dangerous constituents and parameters in ground water at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The owner or operator must analyze samples from all monitoring wells at the compliance point for constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer. If the owner or operator finds constituents identified in WAC 173-303-9905, and any other dangerous constituents not listed in WAC 173-303-9905 but which are specified in the facility permit pursuant to subsection (4)(a) of this section in the ground water that are not identified in the permit as dangerous constituents, he must report the

concentrations of these additional constituents to the department within seven days after completion of the analysis.

(g) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8)(d) and (e) of this section.

(h) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any dangerous constituents specified in the permit each time he determines the concentration of dangerous constituents in ground water at the compliance point.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each dangerous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point, within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(i) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection standard is being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(j) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection standard is being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (i)(ii) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (i)(ii) of this subsection, unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(k) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(l) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary. The permit will specify the measures to be taken.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for

as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-645, filed 4/18/84.]

**WAC 173-303-650 Surface impoundments.** (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for

selecting the liner(s). The report shall be certified by a licensed professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment shall be located so as to meet the buffer zone requirements of WAC 173-303-440.

(g) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(h) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(i) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(j) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities

that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event

of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and postclosure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all postclosure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the postclosure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and postclosure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent postclosure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the postclosure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment 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; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in

the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-650, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-650, filed 2/10/82.]

**WAC 173-303-655 Land treatment.** (1) Applicability. The regulations in this subpart apply to owners and operators of facilities that treat or dispose of dangerous waste in land treatment units, except as WAC 173-303-600 provides otherwise.

(2) Treatment program.

(a) An owner or operator subject to this section must establish a land treatment program that is designed to ensure that dangerous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The department will specify in the facility permit the elements of the treatment program, including:

(i) The wastes that are capable of being treated at the unit based on a demonstration under subsection (3) of this section;

(ii) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with subsection (4)(a) of this section; and

(iii) Unsaturated zone monitoring provisions meeting the requirements of subsection (6) of this section.

(b) The department will specify in the facility permit the dangerous constituents that must be degraded, transformed, or immobilized under this section. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents which, although not listed in WAC 173-303-9905, cause a waste to be regulated under this chapter, that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The department will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below, and including, the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of dangerous constituents. The maximum depth of the treatment zone must be:

(i) No more than 1.5 meters (5 feet) below the initial soil surface; and

(ii) More than 3 meters (10 feet) above the seasonal high water table; except that the owner or operator may demonstrate to the satisfaction of the department that a distance of less than 3 meters will be adequate. In no case shall the distance be less than 1 meter.

(3) Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that dangerous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.



(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under (a) of this subsection, he must obtain a land treatment demonstration permit under WAC 173-303-808. The department will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in (c) of this subsection.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under (a) of this subsection must:

(i) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(A) The characteristics of the waste and of dangerous constituents present;

(B) The climate in the area;

(C) The topography of the surrounding area;

(D) The characteristics and depth of the soil in the treatment zone; and

(E) The operating practices to be used at the unit;

(ii) Be likely to show that dangerous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(iii) Be conducted in a manner that protects human health and the environment considering:

(A) The characteristics of the waste to be tested;

(B) The operating and monitoring measures taken during the course of the test;

(C) The duration of the test;

(D) The volume of waste used in the test; and

(E) In the case of field tests, the potential for migration of dangerous constituents to ground water or surface water.

(4) Design and operating requirements. The department will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this subsection.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of dangerous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accordance with all design and operating conditions that were used in the treatment demonstration under subsection (3) of this section. At a minimum, the department will specify in the facility permit:

(i) The rate and method of waste application to the treatment zone;

(ii) Measures to control soil pH;

(iii) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and

(iv) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize runoff of dangerous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(ii) Improper functioning of wind dispersal control measures.

(5) Food chain crops. The department may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this subsection. The department will specify in the facility permit the specific food chain crops which may be grown.

(a)(i) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that dangerous constituents other than cadmium:

(A) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(B) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(ii) The owner or operator must make the demonstration required under (a)(i) of this subsection prior to the planting of crops at the facility for all dangerous constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(iii) In making such a demonstration, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(A) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (e.g., pH, cation exchange capacity), specific

wastes, application rates, application methods, and crops to be grown; and

(B) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(iv) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone;

(i)(A) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(B) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984 . . . . .	2.0
July 1, 1984 to Dec. 31, 1986 . . . . .	1.25
Beginning Jan. 1, 1987 . . . . .	0.5

(C) The cumulative application of cadmium from waste must not exceed 5kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(D) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(ii)(A) Animal feed must be the only food chain crop produced;

(B) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(C) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(D) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with (b)(ii) of this subsection.

(6) Unsaturated zone monitoring. An owner or operator subject to this section must establish an unsaturated zone monitoring program to discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether dangerous constituents migrate out of the treatment zone.

(i) The department will specify the dangerous constituents to be monitored in the facility permit. The dangerous constituents to be monitored are those specified under subsection (2)(b) of this section.

(ii) The department may require monitoring for principal dangerous constituents (PDCs) in lieu of the constituents specified under subsection (2)(b) of this section. PDCs are dangerous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The department will establish PDCs if it finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PDCs will assure treatment at at least equivalent levels for the other dangerous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(i) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(ii) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each dangerous constituent to be monitored under (a) of this subsection. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(i) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(ii) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(iii) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(iv) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with (b)(i) of this subsection.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring [immediately below

the treatment zone. The department will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

- (i) Sample collection;
- (ii) Sample preservation and shipment;
- (iii) Analytical procedures; and
- (iv) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any dangerous constituent to be monitored under (a) of this subsection, below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under (d) of this subsection, to the background value for that constituent according to the statistical procedure specified in the facility permit under this subsection.

(ii) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(iii) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he must:

(i) Notify the department of his finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

(ii) Within forty-five days, submit to the department an application for a permit modification to amend the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone; and

(iii) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(h) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection, he is not relieved of the requirement to submit concurrently a permit modification application within the forty-five-day period, unless the demonstration made under this subsection successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(iv) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(7) Recordkeeping. The owner or operator must include dangerous waste application dates and rates in the operating record required under WAC 173-303-380.

(8) Closure and postclosure care.

(a) During the closure period the owner or operator must:

(i) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of dangerous constituents within the treatment zone as required under subsection (4)(a) of this section, except to the extent such measures are inconsistent with (a)(viii) of this subsection;

(ii) Continue all operations in the treatment zone to minimize run-off of dangerous constituents as required under subsection (4)(b) of this section;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section;

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated ninety days after the last application of waste to the treatment zone; and

(viii) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of dangerous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with WAC 173-303-610(6) when closure is completed, the owner or operator may submit to the department a certification by an independent qualified soil scientist, in lieu of a licensed professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the postclosure care period the owner or operator must:

(i) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of dangerous constituents in the treatment zone to the extent that such measures are consistent with other postclosure care activities;

(ii) Maintain a vegetative cover over closed portions of the facility;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste, if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section; and

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated one hundred eighty days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under (a)(viii) and (c) of this subsection, if the department finds that the level of dangerous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in (d)(iii) of this subsection. The owner or operator may submit such a demonstration to the department at any time during the closure or postclosure care periods. For the purposes of this subsection:

(i) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all dangerous constituents specified in the facility permit under subsection (2)(b) of this section;

(A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone;

(B) The owner or operator must express background values and values for dangerous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under (d)(iii) of this subsection;

(ii) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively;

(iii) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying dangerous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under WAC 173-303-645 if the department finds that the owner or operator satisfies (d) of this subsection, and if unsaturated zone monitoring under subsection (6) of this section, indicates that dangerous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

(9) Special requirements for ignitable or reactive waste. The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(a) The waste is immediately incorporated into the soil 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) and (7); and

(ii) WAC 173-303-395 is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(10) Special requirements for incompatible wastes. The owner or operator must not place incompatible wastes, or incompatible wastes and materials, in or on the same treatment zone, unless WAC 173-303-395 (1)(b) is complied with.

(11) Special requirements for extremely hazardous waste. Under no circumstances will EHW be allowed to remain in a closed land treatment unit after concluding the postclosure care period. If EHW remains at the end of the scheduled postclosure care period specified in the permit, then the department will either extend the

postclosure care period, or require that all EHW be disposed of off-site or that it be treated. In deciding whether to extend postclosure care or require disposal or treatment, the department will take into account the likelihood that the waste will or will not continue to degrade in the land treatment unit to the extent that it is no longer EHW. For the purposes of this subsection, EHW will be considered to remain in a land treatment unit if representative samples of the treatment zone are designated as EHW. Procedures for representative sampling and testing will be specified in the permit. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-655, filed 4/18/84.]

**WAC 173-303-660 Waste piles. (1) Applicability.**

(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.

(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:

(i) Liquids or materials containing free liquids are not placed in the pile;

(ii) The pile is protected from surface water run-on by the structure or in some other manner;

(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and

(iv) The pile will not generate leachate through decomposition or other reactions.

(d) All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).

**(2) Design and operating requirements.**

(a) A waste pile (except for an existing portion of a waste pile) must have:

(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.

(c) For EHW management, the owner or operator shall submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement shall be certified by a licensed professional engineer.

(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.

(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously

and in accordance with this chapter after storms to maintain design capacity of the system.

(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii) (A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;

(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The

frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;

(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection; and

(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(i) Notify the department of the condition in writing within seven days after detecting the condition; and

(ii)(A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

- (i) Immediately stop adding wastes to the pile;
- (ii) Immediately contain any leakage which has occurred or is occurring;
- (iii) Immediately cause the leak to be stopped; and
- (iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of (c) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by a licensed professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

- (i) The containment system has been repaired; and
- (ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a pile, unless:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395 (1)(b); or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395 (1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material 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. Piles of incompatible wastes must not be served by the same containment system.

(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395 (1)(b).

(9) Closure and postclosure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must close the facility and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills, WAC 173-303-665(6).

(c) (i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620(3) and (5) for closure and postclosure care of a pile must include the cost of complying with the contingent closure plan and the contingent postclosure plan. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-660, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-660, filed 2/10/82.]

**WAC 173-303-665 Landfills.** (1) Applicability. The regulations in this section apply to owners and operators of facilities that dispose of dangerous waste in landfills, except as WAC 173-303-600 provides otherwise. No landfill shall be permitted to dispose of EHW, except for the Hanford facility under WAC 173-303-700.

(2) Design and operating requirements.

(a) A landfill (except for an existing portion of a landfill) must have:

(i) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The owner or operator must submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by a licensed professional engineer. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent failure under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(B) Designed and operated to function without clogging through the scheduled closure of the landfill.

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(f) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(g) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined landfills; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined landfill is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The landfill (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners; and

(iv) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within the time period specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in



the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the time period specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of landfills exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(5) Surveying and recordkeeping. The owner or operator of a landfill must maintain the following items in the operating record required under WAC 173-303-380:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each dangerous waste type within each cell.

(6) Closure and postclosure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(i) Provide long-term minimization of migration of liquids through the closed landfill;

(ii) Function with minimum maintenance;

(iii) Promote drainage and minimize erosion or abrasion of the cover;

(iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all postclosure requirements contained in WAC 173-303-610 (7), (8), (9), and (10) including

maintenance and monitoring throughout the postclosure care period. The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(iv) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of WAC 173-303-645;

(v) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(vi) Protect and maintain surveyed benchmarks used in complying with subsection (5) of this section.

(c) During the postclosure care period, if liquid leaks into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will modify the permit to require compliance with the requirements of WAC 173-303-645.

(7) Special requirements for ignitable or reactive waste.

(a) Except as provided in (b) of this subsection, and in subsection (10) of this section, ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before or immediately after placement in a landfill 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) and (7); and

(ii) WAC 173-303-395 (1)(b) is complied with.

(b) Ignitable wastes in containers may be landfilled without meeting the requirements of (a) of this subsection, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes: Must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

(8) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials must not be placed in the same landfill cell, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for liquid waste.

(a) Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with an absorbent solid), so that free liquids are no longer present.

(b) Containers holding free liquids must not be placed in a landfill unless:

(i) All free-standing liquid:

(A) Has been removed by decanting, or other methods;

(B) Has been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or

(C) Has been otherwise eliminated; or

(ii) The container is very small, such as an ampule; or

(iii) The container is a lab pack as defined in subsection (10) of this section, and is disposed of in accordance with that subsection.

(10) Special requirements for containers.

(a) Unless they are very small, such as an ampule, containers must be either:

(i) At least ninety percent full when placed in the landfill; or

(ii) Crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

(b) Small containers of dangerous waste in overpacked drums (lab packs) may be placed in a landfill if the procedures of WAC 173-303-161 are met. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-665, filed 4/18/84.]

**WAC 173-303-670 Incinerators.** (1) Applicability.

(a) The regulations in WAC 173-303-670 apply to owners and operators of facilities that incinerate dangerous waste.

(b) The department may, in establishing permit conditions, exempt the facility from all requirements of this section except subsection (2) of this section, waste analysis, and subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i)(A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

(ii) Contains none of the dangerous constituents listed in WAC 173-303-9905 above significant concentration limits; and

(iii) Is not designated by the dangerous waste criteria of WAC 173-303-101, Toxic dangerous wastes, nor of WAC 173-303-102, Persistent dangerous wastes, nor of WAC 173-303-103, Carcinogenic dangerous wastes.

(c) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC 173-303-807, or with Part B of his permit application, the owner or operator must have included an

analysis of his waste feed sufficient to provide all information required by WAC 173-303-807 or 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (under subsection (6)(b) of this section).

(3) Designation of principal organic dangerous constituents and dangerous combustion byproducts. Principal organic dangerous constituents (PODCs) and dangerous combustion byproducts must be treated to the extent required by the performance standards specified in subsection (4) of this section. For each waste feed to be burned, one or more PODCs and dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC 173-303-084 or 173-303-101 through 173-303-103. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as PODCs and dangerous combustion byproducts. Constituents are more likely to be designated as PODCs or dangerous combustion byproducts if they are present in large quantities or concentrations. Trial PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC 173-303-807 for obtaining trial burn permits. Trial dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under subsection (6) of this section, it will meet the following performance standards:

(a) An incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each PODC designated (under subsection (3) of this section) in its permit for each waste feed. DRE is determined for each PODC from the following equation:

$$DRE = \frac{(w_{in} - w_{out})}{w_{in}} \times 100\%$$

Where:

$w_{in}$  = Mass feed rate of one PODC in the waste stream feeding the incinerator, and

$w_{out}$  = Mass emission rate of the same PODC present in exhaust emissions prior to release to the atmosphere.

(b) Incinerators burning dangerous waste must destroy dangerous combustion byproducts designated under subsection (3) of this section so that the total mass emission rate of these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of PODCs fed into the incinerator.

(c)(i) An incinerator burning dangerous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where  $P_c$  is the corrected concentration of particulate matter,  $P_m$  is the measured concentration of particulate matter, and  $Y$  is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) The emission standards specified in (c) of this subsection shall be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous wastes shall comply with the applicable air pollution control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subsection (6) of this section), will be regarded as compliance with subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of subsection (4) of this section, may be evidence justifying modification, revocation, or reissuance of a permit under WAC 173-303-830.

(5) Trial burns and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under subsection (6) of this section, except:

(i) In approved trial burns under WAC 173-303-807; or

(ii) Under exemptions created by WAC 173-303-670(1).

(b) New dangerous wastes may be burned only after operating conditions have been specified in a trial burn

permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806 (4)(f)(iii)(G), as sufficient to ensure compliance with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the

performance requirement of subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

- (i) Carbon monoxide (CO) level in the stack exhaust gas;
- (ii) Waste feed rate;
- (iii) Combustion temperature;
- (iv) An appropriate indicator of combustion gas velocity;
- (v) Allowable variations in incinerator system design or operating procedures; and
- (vi) Such other operating requirements as are necessary to ensure that the performance standards of subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except waste exempted in accordance with subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

- (i) Keeping the combustion zone totally sealed against fugitive emissions;
- (ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or
- (iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under (a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

- (i) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;
- (ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and
- (iii) As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be tested at least weekly to verify proper operation, unless the owner or

operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contaminated with dangerous waste or waste residues must be decontaminated or removed. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-670, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-670, filed 2/10/82.]

**WAC 173-303-700 Requirements for the Washington state extremely hazardous waste management facility at Hanford.** (1) Purpose and applicability. The purpose of this section is to set forth the requirements for the Washington EHW management (EHWM) facility located at Hanford, Washington. It is the only facility within the state that is allowed under law to dispose of EHW (RCW 70.105.050).

(2) Waste acceptance at Hanford.

(a) The state operator shall accept EHW for treatment, storage, or disposal when:

(i) The waste has been specified in the state operator's permit as not requiring prior approval from the department and the state operator sends a copy of each written request for disposal of waste at the EHWM facility to the department, not later than one week after receiving the request; or

(ii) If the waste has not been specified in the state operator's permit, then the department provides written approval that the waste may be accepted at the EHWM facility. Notices of approval or disapproval shall be provided as soon as possible, but not later than 15 days, after the state operator has notified the department. Written approval from the department is not required in emergencies, as specified; and

(iii) The generator has obtained prior written approval for waste acceptance from the state operator;

(iv) The waste is accompanied by a manifest specified in the generator requirements of WAC 173-303-180, Manifest; and

(v) Waste containers meet the labeling and container condition requirements of WAC 173-303-190.

(b) The state operator may accept DW, as defined in this regulation, for storage, treatment, or disposal when:

(i) All the conditions of EHW acceptance, (a) of this subsection, are met;

(ii) The generator and/or operator shows that no other permitted TSD facility in the state will handle such DW. The generator and/or operator shall refer to:

(A) County or municipal ordinances or solid waste permits forbidding DW disposal at nearby sites;

(B) The EHWM site being the shortest economical haul distance where other remotely located, DW sites may be available; and

(C) Specific rejection or disapproval, in writing, by nearby DW site operators, public or private; and

(iii) The EHWM facility is designed to handle such a request or can be modified to the extent necessary to adequately dispose of the waste.

(c) The state operator, after consulting with the department, may refuse to accept any waste that does not meet the requirements of the acceptance procedures of this subsection until the facts are ascertained, including but not limited to:

(i) The requirement that samples of waste be taken and analyzed; or

(ii) The condition of the containers by physical inspection of the delivery load.

(d) The state operator may accept dangerous waste under emergency conditions if:

(i) An emergency and potential threat to the public health and safety exists;

(ii) the state operator notifies the department as soon as possible;

(iii) The state operator stores the waste upon delivery until the full manifest has been received and approved by the department; and

(iv) The generator is fully apprised that the waste remains his liability until approved under (d)(iii) of this subsection.

(3) Other applicable requirements. The EHWM facility at Hanford shall meet all other requirements of chapter 173-303 WAC, including specific requirements for storage, treatment, transfer and disposal of EHW, and siting, performance, and operation of facilities. The EHWM facility shall also meet the following requirements:

(a) The state operator shall not remove any dangerous waste from the facility without the department's approval;

(b) The state operator shall maintain facilities for telephone and radio contact with the Hanford Reservation security patrol, and include this information with the contingency plan required in WAC 173-303-350;

(c) As a minimum, the state operator shall provide personnel having knowledge and background in the following areas:

(i) Inspecting and checking manifests for completeness and accuracy;

(ii) Applied chemistry as it relates to reactivity, explosiveness, and flammability; and

(iii) Industrial hygiene and/or toxicology of industrial, commercial, and agricultural chemicals, and emergency procedures;

(d) The state operator shall ensure that new personnel have a complete physical examination and annual checkups thereafter. The physician should be alerted to the kinds of materials the employee has been handling, so that more specific analyses can be made. The medical

records shall be made a part of the state operator's records as required in WAC 173-303-380(1); and

(e) The state operator shall submit copies of all fee schedules to the department for yearly review and approval. The state operator shall supply, and the department shall use, the following criteria to review such disposal fees:

(i) Their relationship to other fees charged for similar services;

(ii) Reasonable return on investment and profit for the operator; and

(iii) The cost of administration, development, operation, maintenance, and perpetual management of the EHW facility, including administrative costs and perpetual management costs of the department.

(4) Department surveillance.

(a) In addition to the reports required under WAC 173-303-390, facility reports, the EHWM facility operator shall report the following to the department:

(i) Copies of all environmental sampling results during the previous quarter;

(ii) Telephone and written accounts of any accidents or emergencies requiring action under WAC 173-303-360; and

(iii) Complete financial reports during the previous year.

(b) The state operator shall admit the department's duly authorized representative to inspect the site at any reasonable hour of the day. Inspection may cover any of the following:

(i) The site and facilities;

(ii) The waste being delivered, stored, processed, or buried, including the taking of samples, a portion of each sample being given to the operator upon his request;

(iii) The environment, by the drilling of test wells and obtaining of samples; and

(iv) Any records, reports, information, or test results relating to the purpose of this regulation.

The inspection results will be written, filed with the department, and a copy made available to the state operator. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-700, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-700, filed 2/10/82.]

**WAC 173-303-800 Permit requirements for dangerous waste management facilities.** (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040(75)), and for any facility which at closure does not meet the removal or decontamination limits of WAC

173-303-610 (2)(b), post-closure care period in accordance with WAC 173-303-800 through 173-303-840.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-420 and 173-303-430 are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR 270.2. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-800, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-800, filed 2/10/82.]

**WAC 173-303-801 Types of dangerous waste management facility permits.** The following types of permits may be issued by the department to carry out the purpose of this regulation.

(1) Permits by rule:

(a) Ocean disposal - See WAC 173-303-802(2);

(b) Underground injection wells - See WAC 173-303-802(3);

(c) Publicly owned treatment works - See WAC 173-303-802(4); and

(d) Totally enclosed treatment facilities and elementary neutralization and wastewater treatment units - See WAC 173-303-802(5).

(2) Emergency permits - See WAC 173-303-804.

(3) Interim status permits - See WAC 173-303-805.

(4) Final facility permits:

(a) Final status TSD permits - See WAC 173-303-806;

(b) Moderate risk permits - See WAC 173-303-806; and

(c) Recycling permits - See WAC 173-303-806.

(5) Trial burns for dangerous waste incinerator final facility permits - See WAC 173-303-807.

(6) Demonstrations for dangerous waste land treatment final facility permits - See WAC 173-303-808.

(7) Demonstration permit for new chemical, physical or biological treatment processes - See WAC 173-303-809. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-801, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-801, filed 2/10/82.]

**WAC 173-303-802 Permits by rule.** (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities and elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

(i) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380 (1)(d), and 173-303-390 of the general facility standards; and

(ii) WAC 173-303-430, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

(i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, state waste discharge, pretreatment, etc.); and

(ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit; or

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under chapter 173-303 WAC are necessary to provide such protection. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-802, filed 4/18/84.]

**WAC 173-303-804 Emergency permits.** Requirements for an emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit shall be given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:

(1) May be oral or written. If oral, it shall be followed within five days by a written emergency permit;

(2) Shall not exceed ninety days in duration;

(3) Shall clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(4) May be terminated by the department at any time without following the decisionmaking procedures of WAC 173-303-840 if the department determines that termination is appropriate to protect public health and the environment;

(5)(a) Shall be accompanied by a public notice that includes:

(i) The name and address of the department;

(ii) The name and location of the permitted TSD facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) The duration of the emergency permit; and

(b) Shall be given public notice by:

(i) Publication in a daily newspaper within the area affected;

(ii) By radio broadcast within the area affected;

(iii) By mailing a copy of the public notice to the persons described in WAC 173-303-840 (3)(e)(i); and

(iv) Any other method reasonably determined to give actual notice of the emergency permit to persons potentially affected by it; and

(6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-804, filed 4/18/84.]

**WAC 173-303-805 Interim status permits.** (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application.

(2) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under chapter 173-303 WAC provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(3) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (2) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility is managing a waste that has become designated as a dangerous waste due to amendments to this chapter and the facility was not previously managing dangerous waste subject to this chapter, then the owner/operator of the facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the effective date of the amendments which newly designate his dangerous waste.

(4) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing

TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (7) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (7) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (6) of this section. Failure to comply with this updating requirement is a violation of interim status.

(5) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(6) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes (along with a justification explaining the need for the change) and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in

WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. All other interim status permit duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirement, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(7) Termination of interim status permit. The following are causes for terminating an interim status permit:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application; or

(d) Violation of applicable interim status standards.

(8) Moderate risk waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE



83-36), § 173-303-805, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-805, filed 2/10/82.]

**WAC 173-303-806 Final facility permits.** (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities;
- (b) Moderate risk waste management facilities; and
- (c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the application for the permit is submitted to the department. If new regulations become effective between the date that the permit application is submitted and the date that public notice of the draft permit is issued under WAC 173-303-840(3), then the permit applicant may, at his option, request that the final facility permit include the new regulatory requirements and provide the additional information necessary to do so. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the

department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

- (i) A general description of the facility.
- (ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.
- (iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).
- (iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.
- (v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640(4), 173-303-650(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).
- (vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340.
- (vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-650(5) and 173-303-660(6).
- (viii) A description of procedures, structures, or equipment used at the facility to:
  - (A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);
  - (B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
  - (C) Prevent contamination of water supplies;
  - (D) Mitigate effects of equipment failure and power outages; and
  - (E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).
- (ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).
- (x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).
- (xi) Facility location information;
  - (A) In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.

(Comment: If the county is not listed in WAC 173-303-420 (3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)

(B) If the facility is proposed to be located in a county listed in WAC 173-303-420 (3)(c), the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or

(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(C) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance

Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)

(D) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

(III) If applicable, and in lieu of (a)(xi)(D)(I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.

(E) Existing facilities **not** in compliance with WAC 173-303-420(4) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(F) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC 173-303-420(5).

(G) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC 173-303-420(6).

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the postclosure plan required by WAC 173-303-610

(3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For existing disposal facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by WAC 173-303-610(10).

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) plus a copy of the financial assurance mechanism adopted in compliance with WAC 173-303-620(4).

(xvi) Where applicable, the most recent postclosure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the financial assurance mechanism adopted in compliance with WAC 173-303-620(6).

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620(8)(a) and, if applicable, WAC 173-303-620(8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620(8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;
- (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
- (K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note – For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645(1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645(9)(h)(v). To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or

operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken; and

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and the basis for selecting shell thickness, certified by a licensed professional engineer;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones;

(vii) A description of the containment system to demonstrate compliance with WAC 173-303-640 (2)(b). Show at least the following:

(A) How the design meets the capacity of containment requirements, and;

(B) How the design contains the precipitation of a maximum twenty-five year storm of twenty-four hours duration;

(viii) A description of the marking and/or labeling of tanks; and

(ix) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location

of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with; and

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and

hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection.

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the

contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in

WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the postclosure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the postclosure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and

engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and postclosure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with; and

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(6)), only after submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.



(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under WAC 173-303-806(7).

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination.

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final moderate risk and recycling facility permits. In lieu of issuing a final moderate risk or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-520 for recycling facilities or WAC 173-303-550 through 173-303-560 for moderate risk facilities. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-806, filed 4/18/84.]

**WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits.**

(1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns shall not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The procedures for requesting and approving trial burns are described in:

(a) Subsection (10) of this section for existing incinerators with interim status permits; and

(b) Subsection (11) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110, or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110; and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, shall evaluate the adequacy of the information provided and may require the

applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department shall approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O<sub>2</sub>, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(7) Certification. The applicant shall submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (6) of this section. This submission shall be made within thirty days of the completion of the trial burn, or later if approved by the department.

(8) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(9) Signatures required. All submissions required under this section shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(10) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator shall prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (9) of this section.

(b) If the department approves the trial burn, it shall issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification shall be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator shall complete the trial burn and submit the information described in subsection (6) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results.

(11) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request shall include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department shall proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit shall include the trial burn plan, and shall establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results shall also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit shall be modified in accordance with WAC 173-303-830 (including minor modifications, if applicable) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval shall be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-807, filed 4/18/84.]

**WAC 173-303-808 Demonstrations for dangerous waste land treatment final facility permits.** (1) Purpose and applicability. This section is applicable to the owner/operator of a land treatment facility who must demonstrate that his proposed treatment will be successful. The purpose of this section is to allow the department to issue a land treatment demonstration permit.

(2) Permit issuance. The department may issue a land treatment demonstration permit either in advance of or as part of a final facility permit so that the owner/operator of a land treatment facility can make the demonstration required in WAC 173-303-655(3). If issued in advance of the final facility permit, the land treatment demonstration permit shall be issued as described in subsection (3) of this section, as a demonstration permit only. If issued as part of the final facility permit, the land treatment demonstration and final facility permit shall be issued as described in subsection (4) of this section, as a phased permit. The determination for which procedure to follow will be made by the department based on the information submitted by the owner/operator in Part B of the final facility permit application.

(3) Demonstration permit only.

(a) If the department finds that the Part B does not contain enough information regarding the proposed treatment to allow the department to establish permit conditions necessary for compliance with all requirements of WAC 173-303-655, it may issue a land treatment demonstration permit only. The demonstration

permit will be issued in accordance with the decision-making procedures of WAC 173-303-840. The demonstration permit may be issued either as a treatment or disposal permit, will cover only the field test or laboratory analyses, shall contain only those requirements necessary to meet the standards in WAC 173-303-655(3), and shall provide a specific time period for the demonstration. The department may extend the demonstration period as a modification (or minor modification, if applicable) to the demonstration permit.

(b) Within thirty days (unless the department approves a later date) of the end of the treatment demonstration, the owner/operator shall submit a revised Part B to the department containing the results of the field tests or laboratory analyses and all data developed during the demonstration period. The department shall then use the information and Part B to determine whether or not there is adequate information to issue a final facility permit which will incorporate conditions sufficient to provide compliance with all requirements of WAC 173-303-655. If the information is adequate, the department will proceed under WAC 173-303-806 to issue a final facility permit. If the information is not adequate, the department may, as the situation warrants, either issue a modification to the demonstration permit in accordance with the procedures of subsection (3)(a) of this section, or deny the final facility permit application.

#### (4) Phased permit.

(a) The department may issue a two-phase final facility permit if it finds that, based on information submitted in Part B of the permit application, substantial (although incomplete and inconclusive) information exists upon which to base the issuance of a final facility permit. The phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for making a land treatment demonstration, and a second phase (to become effective after completion of the first phase) for establishing conditions for operation of the land treatment facility.

(b) If the department finds that a phased permit may be issued, it will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the department finds may be necessary under WAC 173-303-655 (3)(c). The department will include conditions in the second phase of the facility permit to attempt to meet all WAC 173-303-655 requirements pertaining to unit design, construction, operation, and maintenance. The department will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(i) The first phase of the permit will be effective as provided in WAC 173-303-840 (8)(b).

(ii) The second phase of the permit will be effective as provided in (d) of this subsection.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within thirty days of completion of those tests or analyses unless the department approves a later date.

(d) If the department determines that the results of the field tests or laboratory analyses meet the requirements of WAC 173-303-655(3), it will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with WAC 173-303-655, based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed as a minor modification under WAC 173-303-830(4), provided any such change is minor, or otherwise will proceed as a modification under WAC 173-303-830(3).

(ii) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the department will give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in WAC 173-303-840 (8)(b).

(iii) If modifications under WAC 173-303-830(3) are necessary, the second phase of the permit will become effective only after those modifications have been made.

(e) If the department determines that the results of the field tests or laboratory analyses do not meet the requirements of WAC 173-303-655(3), the second phase of the permit will not become effective, and the department will, as the situation warrants, either:

(i) Modify the permit according to WAC 173-303-830(3) to allow for additional field tests or laboratory analyses; or

(ii) Proceed to terminate the permit according to WAC 173-303-840. [Statutory Authority: Chapter 70-.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-808, filed 4/18/84.]

**WAC 173-303-809 Demonstration permit for new chemical, physical, or biological treatment processes.** (1) Purpose and applicability. This section applies to TSD facilities which will be chemically, physically, or biologically treating dangerous waste through new processes, and which are applying for a final facility permit. The purpose of this section is to provide permits which will allow new treatment processes (NTP) to operate and demonstrate the conditions of operation. The department will use the demonstration information developed under

permits issued pursuant to this section to specify the final operating conditions in the final facility permit. Demonstration permits will not be issued under this section to applicants whose NTP will be treating dangerous waste which is also designated as hazardous waste under 40 CFR Part 261. Demonstration permits for trial burns or land treatment will not be issued under this section; they must be issued under WAC 173-303-807 and 173-303-808 respectively.

(2) Permit issuance. The department may issue a NTP demonstration permit either in advance of or as part of a final facility permit. The demonstration permit will include the demonstration and performance standards of subsection (3) of this section. If issued in lieu of the final facility permit, the NTP demonstration permit shall be issued as described in subsection (4) of this section. If issued as part of the final facility permit, the NTP demonstration permit and final facility permit shall be issued as described in subsection (5) of this section. The department will decide which permit issuance procedure will be followed based on information provided by the NTP applicant in Part B of the facility permit application.

(3) Demonstration and performance standards. This subsection describes the standards that will be included in a NTP demonstration permit to determine and establish the effectiveness of the NTP and the necessary final facility operating conditions. These standards will also assure that the NTP demonstration will be performed in a manner which will not pose a threat to public health and the environment.

(a) Demonstration. The NTP demonstration must be likely to show whether or not the NTP will effectively treat the dangerous waste. If the information provided by the applicant in his Part B application is determined by the department to be inadequate or to provide insufficient information regarding the likelihood of effective treatment, then a permit will not be issued under subsection (4) or (5) of this section. At a minimum, the NTP demonstration must:

- (i) Accurately simulate the operating conditions of the NTP;
- (ii) Specify the wastes and waste quantities to be treated and the duration of the demonstration;
- (iii) Be likely to result in effective treatment; and
- (iv) Obtain the following information during the demonstration:

(A) Data on the concentrations and quantities of dangerous and nondangerous wastes and constituents before and after treatment;

(B) Recommended changes in operating conditions that could provide for more effective treatment;

(C) Identification of situations which resulted in not meeting the operating conditions, or in releases of dangerous waste or constituents to the environment;

(D) Data from any required monitoring equipment and process control instruments, such as temperature or pressure gauges, level indicators, waste feed rate and flow meters, etc.;

(E) The effectiveness of any emergency control equipment or measures, when tested or implemented, such as

shut off valves, spill containment systems, cleanup actions, etc.; and

(F) Such other information or data as required by the department.

(b) Performance. The NTP demonstration must be performed in a manner which will not pose a threat to public health or the environment. If the department determines, from the information provided by the applicant in his Part B application, that the NTP demonstration would pose a threat to public health or the environment, then a permit will not be issued under subsection (4) or (5) of this section. The NTP demonstration will be considered to pose a threat if it cannot comply with the performance standards of WAC 173-303-430(3).

(4) Demonstration permit only. If the department finds that the Part B application does not contain enough information regarding the NTP to establish the full final facility operating conditions, then the department will issue a demonstration permit only. This permit will be issued in accordance with the decision-making procedures of WAC 173-303-840, and will cover only the NTP demonstration. The duration of the demonstration, and applicable operating conditions and performance standards will be specified in the permit. The department may extend the demonstration as a modification (or minor modification, if applicable) to the permit.

Within thirty days of the end of the demonstration, the owner/operator shall provide to the department the information obtained under subsection (2)(a)(iv) of this section, and a revised Part B application covering any necessary changes or new operating conditions. Based on the adequacy of the information and the revised Part B application, the department will either:

(a) Issue a final facility permit under WAC 173-303-806, if the available information is sufficient to establish all necessary operating conditions; or

(b) Issue a phased permit under subsection (5) of this section, if the available information is nearly sufficient to establish the necessary operating conditions; or

(c) Deny the final facility permit under WAC 173-303-840, if the available information indicates that the NTP cannot operate without posing a threat to public health or the environment.

(5) Phased permit. If the department finds that the Part B application contains substantial information regarding the NTP that would be sufficient to establish nearly all final operating conditions, then the department may issue a two-phase final facility permit. This phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for a NTP demonstration, and a second phase (to become effective as described in (b) of this subsection) for establishing the NTP facility operating conditions.

(a) First phase. The department will establish, as requirements in the first phase of the permit, conditions for conducting the NTP demonstration. The NTP demonstration may be conducted, if approved by the department, as an actual trial run of the NTP facility itself. The demonstration conditions will include design and

operating parameters, demonstration duration, monitoring procedures, information to be collected pursuant to subsection (2)(a)(iv) of this section, performance standards, and such other conditions deemed appropriate by the department.

Upon completion of the first phase, the owner/operator must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the NTP demonstration has been carried out in accordance with the conditions specified in the first phase of the permit. The owner/operator must also submit a report containing all information and data collected and identifying any significant problems encountered during the demonstration. The owner/operator shall not implement the second phase of his permit until after the certification and report have been submitted to the department, and he has been notified by the department in accordance with (b) of this subsection that the second phase of his permit is effective.

(b) Second phase. The department will establish, as requirements in the second phase of the permit, final operating conditions for the NTP facility. These conditions will, to the maximum extent possible given the information available and provided in the Part B application, include all applicable requirements necessary to comply with the final facility standards of this chapter (including, but not limited to, WAC 173-303-600 through 173-303-670 and 173-303-806). The second phase shall also identify those operating conditions which are reasonably expected to change as a result of information developed during the first phase demonstration, and the maximum extent to which those conditions are expected to change. The second phase shall also specify what criteria, if met, will result in a need to terminate the permit or to make a major modification to the permit under WAC 173-303-830 because of new information developed during the first phase.

Upon completion of the first phase, the department will review the certification and report submitted pursuant to (a) of this subsection. Based on the new information provided in the certification and report, the department will either:

(i) Notify the owner/operator that the second phase of his permit is effective immediately, if the new information indicates that the second phase is adequate and no changes are necessary; or

(ii) Notify the owner/operator that the second phase of his permit will not be effective until changes to the second phase are made, if the new information indicates that the requirements of the second phase must be changed.

(A) If the necessary changes have already been identified in the second phase prior to permit issuance and the changes are no greater in extent than already identified in the second phase, then the department shall immediately make the appropriate changes to the requirements in the second phase of the permit. Upon completing the changes, the department shall notify the owner/operator of the changes and that, as soon as the owner/operator has included the new requirements into

his facility operations, the second phase of his permit is effective.

(B) If the necessary changes are not already identified, or are greater than the extent specified in the second phase so that the changes cannot be included as provided in (b)(ii)(A) of this subsection, or if the necessary changes meet the criteria already specified in the second phase as being cause for major modification of the permit, then the department will proceed to modify the permit in accordance with WAC 173-303-830(3). The second phase of the permit will be effective only after the permit modifications have been made and the department has notified the owner/operator that his permit is effective; or

(iii) Notify the owner/operator that the second phase will not be effective and that his permit will be terminated, if the new information indicates radical problems with the NTP that cannot be addressed through a permit modification, or if the new information meets the criteria already specified in the second phase as being cause for termination of the permit. Permit termination will proceed in accordance with WAC 173-303-830(5). [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-809, filed 6/27/84.]

**WAC 173-303-810 General permit conditions.** (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee shall take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and

maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records. (a) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(c) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for

continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee shall maintain all records of ground water quality and ground water surface elevations for the active life of the facility, and for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department shall be signed in accordance with WAC 173-303-810(12) and shall be certified according to WAC 173-303-810(13).

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, it is the duty of the operator and owner to obtain and cosign the permit application. The permit application shall be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department shall be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification. Any person identified in subsection (12) of this section as appropriate for signing the documents required for a permit application shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(14) Reporting. The following reports shall be provided:

(a) Planned changes. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) shall be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule shall be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment. Information shall be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Information which must be reported immediately shall include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in



a permit application or in any report to the department, he shall promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if the owner/operator indicates to the department the degree of harm if the information is made to the public.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department shall place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-810, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-810, filed 2/10/82.]

**WAC 173-303-815 (Reserved.)** [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-815, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-815, filed 2/10/82.]

**WAC 173-303-820 (Reserved.)** [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-820, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-820, filed 2/10/82.]

**WAC 173-303-825 (Reserved.)** [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-825, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-825, filed 2/10/82.]

**WAC 173-303-830 Permit changes.** (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under subsection (3) of this section, or a minor modification has been made to identify the new permittee and incorporate such other requirements as stipulated under subsection (4) of this section.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under subsection (3) or (4) of this section, the department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in subsection (4) of this section for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance and which would have justified the application of different permit conditions at the time of issuance;

(iii) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only when:

(A) The permit condition requested to be modified was based on an effective regulation; and

(B) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and either

(I) The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

(II) A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or postclosure. When modification of a closure or postclosure plan is required under WAC 173-303-610 (3) or (8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year postclosure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the postclosure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-806(11) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or

standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Minor modifications of permits. Unless the permittee indicates otherwise, the department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without following the procedures of WAC 173-303-840. Any permit modification not processed as a minor modification under this section must be made for cause and with a draft permit and public notice as required in WAC 173-303-840. Minor modifications may only be made to:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the department;

(e) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(f) Change the following:

(i) Estimates of maximum inventory under WAC 173-303-610 (3)(a)(ii);

(ii) Estimates of expected year of closure or schedules for final closure under WAC 173-303-610 (3)(a)(iv); or

(iii) Approve periods longer than ninety days or one hundred eighty days under WAC 173-303-610 (4)(a) or (b);

(g) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor;

(h) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor;

(i) Grant one extension of the time period for determining operational readiness following completion of construction, for up to seven hundred twenty hours operating time for treatment of dangerous waste in an incinerator;

(j) Change the treatment program requirements for land treatment units under WAC 173-303-655(2) to improve treatment of dangerous constituents, provided that the change is minor;

(k) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with WAC 173-303-808, provided that the change is minor; and

(l) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under

which the waste or wastes can be treated completely as required by WAC 173-303-655, provided that the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

(5) Permit termination. The department shall follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows;

(i) The time between interim dates shall not exceed one year; or

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-830, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-830, filed 2/10/82.]

#### **WAC 173-303-840 Procedures for decision making.**

(1) Application and completeness.

(a) The department will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit. Permit applications must comply with the signature and certification requirements of WAC 173-303-810 (12) and (13).

(b) The department shall review for completeness each application for a permit under this chapter. Each

application for a permit should be reviewed for completeness within sixty days of its receipt. Upon completing the review, the department shall notify the applicant in writing whether or not the application is complete. If the application is incomplete, the department shall list the information necessary to make the application complete, and shall specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(c) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under chapter 70.105 RCW.

(d) If the department decides that a site visit is necessary for any reason in conjunction with the processing of an application, then the department shall notify the applicant and a date shall be scheduled.

(e) The effective date of an application is the date on which the department notifies the applicant that the application is complete as provided in (b) of this subsection.

(2) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is completed, the department shall tentatively decide whether to prepare a draft permit, or to deny the application.

(c) If the department tentatively decides to deny the permit application, then the department shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this subsection. If the department's final decision is that the tentative decision to deny was incorrect, then the department shall withdraw the notice of intent to deny and proceed to prepare a draft permit under this subsection.

(d) If the department decides to prepare a draft permit, it shall contain the following information:

(i) All conditions applicable to permits under WAC 173-303-810;

(ii) Applicable conditions under WAC 173-303-830; and

(iii) All applicable standards for storage, treatment and disposal, and other permit conditions.

(e) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(f) Fact sheet; statement of basis.

(i) A fact sheet shall be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(ii) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological,

and policy questions considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other person.

(iii) The fact sheet shall include, when applicable:

(A) A brief description of the type of facility or activity which is the subject of the draft permit;

(B) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(C) A brief summary of the basis for the draft permit conditions including supporting references;

(D) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and

(E) A description of the procedures for reaching a final decision on the draft permit including:

(I) The beginning and ending dates of the comment period and the address where comments will be received;

(II) Procedures for requesting a hearing and the nature of that hearing;

(III) Any other procedures by which the public may participate in the final decision; and

(IV) Name and telephone number of a person to contact for additional information.

(iv) The department shall prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(3) Public notice and involvement.

(a) The department shall give public notice that the following actions have occurred:

(i) A draft permit has been prepared or an application is tentatively being denied;

(ii) A hearing on a permit has been scheduled; or

(iii) An appeal on a permit has been filed with the pollution control hearings board.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial shall be given to the person who requested the permit change and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application shall allow at least forty-five days for public comment. Public notice of a public hearing shall be given at least thirty days before the hearing.

(e) Public notice of activities described in this subsection shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, and other appropriate government authorities, including any affected states;

(D) Persons on the mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each state agency having any authority under state law with respect to construction or operation of such facility;

(ii) For major permits, by publication of a notice in a daily or weekly newspaper within the area affected by the facility;

(iii) For all permits, by publication of notice in a daily or weekly major local newspaper of general circulation, and local radio broadcast of the public notice; and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet or statement of basis, and the application;

(v) A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) And any additional information considered necessary or proper.

(b) In addition to the general public notice described in (a) of this subsection, public notice of a hearing under subsection (5) of this section shall contain the following information:

(i) Date, time, and place of the hearing;

(ii) Reference to the date of the previous public notice relating to the permit; and

(iii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(c) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) shall be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(d) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department shall hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in WAC 173-303-840(3). Whenever possible, the department shall schedule a public hearing under this subsection at a location convenient to the nearest population center to the proposed facility.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) shall automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing shall be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters

shall make supporting material not already included in the administrative record available to the department. A comment period longer than thirty days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required under subsection (6) of this section, appear to raise substantial new questions concerning a permit, the department may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department shall issue a final permit decision. The department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision shall become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(9) Response to comments. At the time that any final permit is issued, the department shall issue a response to comments. This response shall specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing. The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830 (3) and (4), or terminated for the reasons specified in WAC 173-303-805 or 173-303-806. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830(3), it shall prepare the draft permit under WAC 173-303-840(2), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department shall require the submission of a new application.

(c) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Minor modifications" as defined in WAC 173-303-830(4) are not subject to the requirements of this section.

(e) If the department tentatively decides to terminate an interim status permit under WAC 173-303-805 or a final permit under WAC 173-303-806, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(2). [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-840, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-840, filed 2/10/82.]

**WAC 173-303-910 Petitions.** (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

- (i) The petitioner's name and address;
- (ii) A statement of the petitioner's interest in the proposed action;
- (iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and
- (iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(d) After evaluating all public comments the department will make a final decision in accordance with

RCW 34.04.060. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.04.025.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

- (i) A full description of the proposed method, including all procedural steps and equipment used in the method;
- (ii) A description of the types of wastes or waste matrices for which the proposed method may be used;
- (iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;
- (iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- (v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through 173-303-103.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4) and (5).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

- (i) The name and address of the laboratory facility performing the sampling or tests of the waste;
- (ii) The names and qualifications of the persons sampling and testing the waste;
- (iii) The dates of sampling and testing;
- (iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4) and (5);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but shall not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-

303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 CFR Part 261 Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC 173-303-084 or 173-303-101 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval. [Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-910, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-910, filed 2/10/82.]

#### **WAC 173-303-950 Violations and enforcement.**

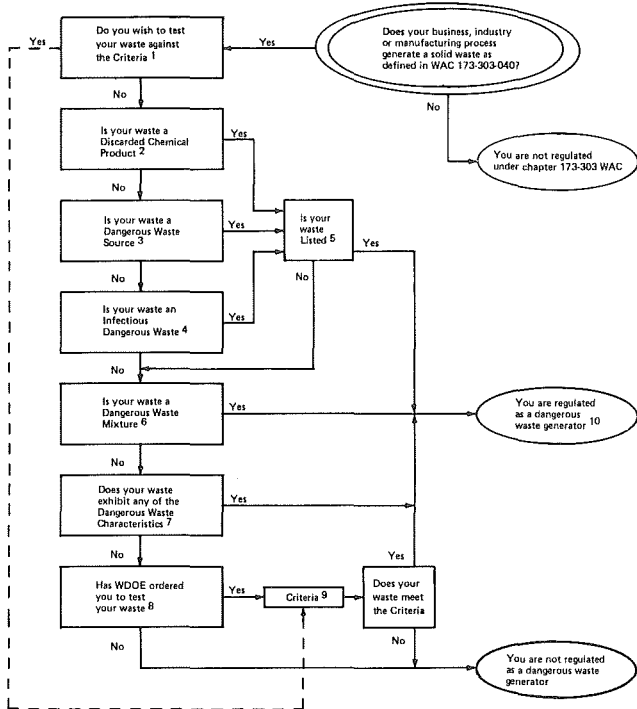
Any violation of this chapter may be subject to the enforcement and penalty sanctions of chapter 70.105 RCW. Such violations include, but are not limited to:

(1) Offering or transporting dangerous waste to a facility which does not have a permit;

(2) Transferring, treating, storing, or disposing of dangerous waste without a permit; or

(3) Falsely representing information in any application, label, manifest, record, report, permit, petition, or other document filed, maintained or used for the purpose of compliance with this chapter. [Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-950, filed 4/18/84.]

**WAC 173-303-9901 Flow chart for designating dangerous wastes.**



1. Voluntary testing, allowed under WAC 173-303-070 (2)(b).
2. See WAC 173-303-081.
3. See WAC 173-303-082.
4. This section, WAC 173-303-083, is reserved, and is not applicable at the publication date of this chapter.
5. The discarded chemical products list appears in WAC 173-303-9903, and the dangerous waste sources list appears in WAC 173-303-9904.
6. See WAC 173-303-084.
7. See WAC 173-303-090. The dangerous waste characteristics include the properties of ignitability, corrosivity, reactivity, and EP toxicity.
8. Washington department of ecology may order testing pursuant to WAC 173-303-070(4).
9. See WAC 173-303-100.
10. As a dangerous waste generator you must comply with the requirements set forth under WAC 173-303-170.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-9901, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-9901, filed 2/10/82.]

**WAC 173-303-9903 Discarded chemical products list.**

**DISCARDED CHEMICAL PRODUCTS LIST**

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
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**ACUTELY DANGEROUS CHEMICAL PRODUCTS**

P023	Acetaldehyde, chloro-	EHW	B H
U001	Acetaldehyde	EHW	C
U034	Acetaldehyde, trichloro-	EHW	H
P002	Acetamide, N-(aminothioxomethyl)-	EHW	B
P057	Acetamide, 2-fluoro-	EHW	B H
P058	Acetic acid, fluoro-, sodium salt	EHW	A H
U144	Acetic acid, lead salt	EHW	D EP
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester	EHW	B
U003	Acetonitrile	EHW	C I
P001	3-(alpha-Acetyl-benzyl)-4-hydroxycoumarin and salts	EHW	A
P002	1-Acetyl-2-thiourea	EHW	B
U006	Acetyl chloride	EHW	C H O R
P003	Acrolein	EHW	X I
U007	Acrylamide	EHW	C
U008	Acrylic acid	EHW	C O I
U009	Acrylonitrile	EHW	C + I
P070	Aldicarb	EHW	B
P004	Aldrin	EHW	X H
P005	Allyl alcohol	EHW	B I
P006	Aluminum phosphide	EHW	B R
P007	5-(Aminomethyl)-3-isoxazolol	EHW	B
P008	4-Aminopyridine	EHW	B
P009	Ammonium picrate	EHW	R
P119	Ammonium vanadate	EHW	B
U012	Aniline	EHW	C I
P010	Arsenic acid	EHW	B
P012	Arsenic (III) oxide	EHW	B +
P011	Arsenic (V) oxide	EHW	B
P011	Arsenic pentoxide	EHW	B
P012	Arsenic trioxide	EHW	B +
P038	Arsine, diethyl-	EHW	B
U015	Azaserine	EHW	C +
P054	Aziridine	EHW	B +
U010	Azirino(2',3':3,4)pyrrolo(1,2a)indole-4,7-dione, 6-amino-8-(((aminocarbonyl)oxy)methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	EHW	B +
P013	Barium cyanide	EHW	A
U157	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	EHW	H P
U017	Benzal chloride	EHW	D H
U018	Benz[a]anthracene	EHW	P +
U018	1,2-Benzanthracene	EHW	P +
U094	1,2-Benzanthracene, 7,12-dimethyl-	EHW	C P
U012	Benzenamine	EHW	C I
P024	Benzenamine, 4-chloro-	EHW	C H
U049	Benzenamine, 4-chloro-2-methyl-	EHW	H
U093	Benzenamine, N,N-dimethyl-4-(phenylazo)-	EHW	C +
U158	Benzenamine, 4,4-methylenebis(2-chloro-	EHW	H +
P077	Benzenamine, 4-nitro-	EHW	D ?
P028	Benzene, (chloromethyl)-	EHW	B H +
U019	Benzene	EHW	C + I
U038	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester	EHW	H
U030	Benzene, 1-bromo-4-phenoxy-	EHW	H
U037	Benzene, chloro-	EHW	B H I
U190	1,2-Benzenedicarboxylic acid anhydride	EHW	C
U070	Benzene, 1,2-dichloro-	EHW	B H
U071	Benzene, 1,3-dichloro-	EHW	B H
U072	Benzene, 1,4-dichloro-	EHW	B H
U017	Benzene, (dichloromethyl)-	EHW	D H
U223	Benzene, 1,3-diisocyanatomethyl-	EHW	B R
U239	Benzene, dimethyl-	EHW	C I
U201	1,3-Benzenediol	EHW	C
U127	Benzene, hexachloro-	EHW	H
U056	Benzene, hexahydro-	EHW	C I
U188	Benzene, hydroxy-	EHW	C
U220	Benzene, methyl-	EHW	C I
U105	Benzene, 1-methyl-1,2,4-dinitro	EHW	C
U106	Benzene, 1-methyl-2,6-dinitro-	EHW	C
U055	Benzene, (1,methylethyl)-	EHW	C I
U169	Benzene, nitro-	EHW	C I



Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U183	Benzene, pentachloro	EHW	H	U246	Cyanogen bromide	EHW	C H
U185	Benzene, pentachloronitro-	EHW	D H +	P033	Cyanogen chloride	EHW	A H
U020	Benzenesulfonic acid chloride	EHW	D H O R	U197	1,4-Cyclohexadienedione	EHW	C
U020	Benzenesulfonyl chloride	EHW	D H O R	U056	Cyclohexane	EHW	C I
U207	Benzene, 1,2,4,5-tetrachloro-	EHW	D H	U057	Cyclohexanone	EHW	C I
U023	Benzene, (trichloromethyl)-	EHW	H O R	U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexa-chloro-	EHW	X H
P042	2-Benzenediol, 4-[1-hydroxy-2-(methyl-amino)ethyl]-	EHW	B	U058	Cyclophosphamide	EHW	C H + I
P014	Benzenethiol	EHW	A	U240	2,4-D, salts and esters	EHW	B H
U021	Benzidine	EHW	B +	U060	DDD	EHW	C H +
U022	Benzo[a]pyrene	EHW	P +	U061	DDT	EHW	X H +
U022	3,4-Benzopyrene	EHW	P +	U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one	EHW	X H
U197	p-Benzoquinone	EHW	C	U062	Diallate	EHW	C H +
U023	Benztotrichloride	EHW	H O R	U133	Diamine	EHW	B + R
U050	1,2-Benzphenanthrene	EHW	P +	U063	Dibenz[a,h]anthracene	EHW	A P +
P028	Benzyl chloride	EHW	B H +	U063	1,2:5,6-Dibenzanthracene	EHW	P + A
P015	Beryllium dust	EHW	C +	U064	1,2:7,8-Dibenzopyrene	EHW	P +
U085	2,2'-Bioxirane	EHW	B I	U064	Dibenz[a,i]pyrene	EHW	P +
U021	'1,1'-Biphenyl)-4,4'-diamine	EHW	B +	U066	1,2-Dibromo-3-chloropropane	EHW	C H +
U073	(1,1'-Biphenyl-4,4'-diamine, 3,3'-dichloro-	EHW	H +	U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	EHW	C H +
U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-	EHW	C +	U070	o-Dichlorobenzene	EHW	B H
U024	Bis(2-chloroethoxy) methane	EHW	C H	U071	m-Dichlorobenzene	EHW	B H
U027	Bis(2-chloroisopropyl) ether	EHW	C H O	U072	p-Dichlorobenzene	EHW	B H
P016	Bis(chloromethyl) ether	EHW	B H +	U073	3,3'-Dichlorobenzidine	EHW	H +
U246	Bromine cyanide	EHW	C H	U074	1,4-Dichloro-2-butene	EHW	C H I
P017	Bromoacetone	EHW	C H	U075	Dichlorodifluoromethane	EHW	H
U225	Bromoform	EHW	H	U060	Dichloro diphenyl dichloroethane	EHW	C H +
U030	4-Bromophenyl phenyl ether	EHW	H	U061	Dichloro diphenyl trichloroethane	EHW	X H +
P018	Brucine	EHW	A	U078	1,1-Dichloroethylene	EHW	C H +
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	EHW	C H	U079	1,2-Dichloroethylene	EHW	D H
U035	Butanoic acid, 4-[bis(2-chloroethyl) amino] benzene-	EHW	H +	U025	Dichloroethyl ether	EHW	C H
U160	2-Butanone peroxide	EHW	B R	U081	2,4-Dichlorophenol	EHW	D H
U053	2-Butenal	EHW	B I	U082	2,6-Dichlorophenol	EHW	D H
U074	2-Butene, 1,4-dichloro-	EHW	C H I	U240	2,4-Dichlorophenoxyacetic acid, salts and esters	EHW	B H
U032	Calcium chromate	EHW	C + EP	P036	Dichlorophenylarsine	EHW	B H
P021	Calcium cyanide	EHW	B	U083	1,2-Dichloropropane	EHW	C H I
P123	Camphene, octachloro-	EHW	X H	U084	1,3-Dichloropropane	EHW	C H
U178	Carbamic acid, methylnitroso-, ethyl ester	EHW	C +	P037	Dieldrin	EHW	X H +
U176	Carbamide, N-ethyl-N-nitroso-	EHW	C +	U085	1,2:3,4-Diepoxybutane	EHW	B I
U177	Carbamide, N-methyl-N-nitroso-	EHW	C +	P038	Diethylarsine	EHW	B
U219	Carbamide, thio-	EHW	C +	P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	EHW	A
P103	Carbamimidoseleonic acid	EHW	B	U087	O,O-Diethyl-S-methyl-dithiophosphate	EHW	B
U097	Carbamoyl chloride, dimethyl-	EHW	D H +	P041	Diethyl-p-nitrophenyl phosphate	EHW	A
P022	Carbon bisulfide	EHW	D I ?	P040	O,O-Diethyl O-pyrazenyl phosphorothioate	EHW	A
P022	Carbon disulfide	EHW	D I ?	P043	Diisopropyl fluorophosphate	EHW	B H
U156	Carbonochloridic acid, methyl ester	EHW	B H I	P044	Dimethoate	EHW	A
U033	Carbon oxyfluoride	EHW	B H R	U092	Dimethylamine	EHW	C I
U211	Carbon tetrachloride	EHW	C H +	U093	Dimethylaminoazobenzene	EHW	C +
P095	Carbonyl chloride	EHW	B H	U094	7,12-Dimethylbenz[a]anthracene	EHW	C P
U033	Carbonyl fluoride	EHW	B H R	U095	3,3'-Dimethylbenzidine	EHW	C +
U035	Chlorambucil	EHW	H +	U096	alpha,alpha-Dimethylbenzylhydroperoxide	EHW	C R
U036	Chlordane, technical	EHW	X H	U097	Dimethylcarbamoyl chloride	EHW	D H +
P033	Chlorine cyanide	EHW	A H	U099	1,2-Dimethylhydrazine	EHW	C + I
U026	Chloronaphazine	EHW	H +	P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime	EHW	B
P023	Chloroacetaldehyde	EHW	B H	P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	EHW	A
P024	p-Chloroaniline	EHW	C H	P082	Dimethylnitrosamine	EHW	B +
U037	Chlorobenzene	EHW	B H I	P046	alpha, alpha-Dimethylphenethylamine	EHW	C
U039	4-Chloro-m-cresol	EHW	H	U103	Dimethyl sulfate	EHW	C O +
U041	1-Chloro-2,3-epoxypropane	EHW	C H + I	P047	4,6-Dinitro-o-cresol and salts	EHW	B
U042	2-Chloroethyl vinyl ether	EHW	C H	P034	4,6-Dinitro-o-cyclohexylphenol	EHW	C
U044	Chloroform	EHW	C H +	P048	2,4-Dinitrophenol	EHW	B
U046	Chloromethyl methyl ether	EHW	D H + I	U105	2,4-Dinitrotoluene	EHW	C
U047	beta-Chloronaphthalene	EHW	D H	U106	2,6-Dinitrotoluene	EHW	C
U048	o-Chlorophenol	EHW	D H	P020	Dinoseb	EHW	B
P026	1-(o-Chlorophenyl)thiourea	EHW	A H	U109	1,2-Diphenylhydrazine	EHW	C
P027	3-Chloropropionitrile	EHW	B H	P035	Diphosphoramidate, octamethyl	EHW	?
U049	4-Chloro-o-toluidine, hydrochloride	EHW	H	U110	Dipropylamine	EHW	C I
U032	Chromic acid, calcium salt	EHW	C + EP	U111	Di-n-propylnitrosamine	EHW	C +
U050	Chrysene	EHW	P +	P039	Disulfoton	EHW	A
P029	Copper cyanides	EHW	B	P049	2,4-Dithiobiuret	EHW	A
U051	Creosote	EHW	B	P109	Dithiopyrophosphoric acid, tetraethyl ester	EHW	A
U052	Cresols	EHW	B	P050	Endosulfan	EHW	X H
U052	Cresylic acid	EHW	B	P088	Endothall	EHW	B
U053	Crotonaldehyde	EHW	B I	P051	Endrin	EHW	X H
U055	Cummene	EHW	C I	P042	Epinephrine	EHW	B
P030	Cyanides (soluble cyanide salts), not elsewhere specified	EHW	A				
P031	Cyanogen	EHW	B I				

Dangerous Waste Regulations

173-303-9903

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U001	Ethanal	EHW	C	U143	Lasiocarpine	EHW	C +
U174	Ethanamine, N-ethyl-N-nitroso-	EHW	C +	U144	Lead acetate	EHW	D EP
P046	Ethanamine, 1,1-dimethyl-2-phenyl-	EHW	C	U129	Lindane	EHW	H +
U067	Ethane, 1,2-dibromo-	EHW	C H +	U147	Maleic anhydride	EHW	C
U076	Ethane, 1,1-dichloro-	EHW	D H	U149	Malononitrile	EHW	C
U077	Ethane, 1,2-dichloro-	EHW	D H	U151	Mercury	EHW	EP
U114	1,2-Ethanediybis(2-mercaptoethane)carbamodithioic acid	EHW	B	P092	Mercury, (acetato-O)phenyl-	EHW	B
U131	Ethane, 1,1,1,2,2,2-hexachloro-	EHW	H	P065	Mercury fulminate	EHW	R ?
U024	Ethane, 1,1'-[methylenebis(oxy)] bis[2-chloro-	EHW	C H	U152	Methacrylonitrile	EHW	B I
U247	Ethane, 1,1,1-trichloro-2,2-bis(p-methoxy phenyl)	EHW	D H	U092	Methanamine, N-methyl-	EHW	C I
U003	Ethanenitrile	EHW	C	P016	Methane, oxybis(chloro)-	EHW	B H +
U025	Ethane, 1,1'-oxybis[2-chloro-	EHW	C H	P112	Methane, tetranitro-	EHW	A R
U184	Ethane, pentachloro-	EHW	A H	U029	Methane, bromo-	EHW	H
U208	Ethane, 1,1,1,2-tetrachloro-	EHW	H	U045	Methane, chloro-	EHW	H I
U209	Ethane, 1,1,2,2-Tetrachloro-	EHW	H	U046	Methane, chloromethoxy-	EHW	D H + I
U227	Ethane, 1,1,2-trichloro-	EHW	C H	U068	Methane, dibromo-	EHW	C H +
P084	Ethenamine, N-methyl-N-nitroso	EHW	B +	U080	Methane, dichloro-	EHW	C H
U043	Ethene, chloro-	EHW	D H +	U075	Methane, dichlorodifluoro-	EHW	H
U042	Ethane, 2-chloroethoxy-	EHW	C H	U138	Methane, iodo-	EHW	H +
U078	Ethene, 1,1-dichloro-	EHW	C H +	U211	Methane, tetrachloro-	EHW	C H +
U079	Ethene, trans-1,2-dichloro-	EHW	D H	P118	Methanethiol, trichloro-	EHW	H
U210	Ethene, 1,1,2,2-tetrachloro-	EHW	C H	U153	Methanethiol	EHW	B I
U006	Ethanol chloride	EHW	C H O R	U225	Methane, tribromo	EHW	H
P101	Ethyl cyanide	EHW	B	U121	Methane, trichlorofluoro-	EHW	H
U038	Ethyl 4,4'-dichlorobenzilate	EHW	D H	U044	Methane, trichloro-	EHW	C H +
U114	Ethylenebis(dithiocarbamic acid), salts and esters	EHW	B	P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	EHW	X H +
U067	Ethylene dibromide	EHW	C H	U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octa-chloro-3a,4,7,7a-tetrahydro-	EHW	X H
U077	Ethylene dichloride	EHW	D H	P066	Methomyl	EHW	B
U115	Ethylene oxide	EHW	C I	P067	2-Methylaziridine	EHW	B + I
P054	Ethylenimine	EHW	B +	P068	Methyl hydrazine	EHW	A I
U076	Ethylidene dichloride	EHW	D H	P064	Methyl isocyanate	EHW	I ?
P097	Famphur	EHW	A	P069	2-Methylactonitrile	EHW	A
P056	Fluorine	EHW	B	P071	Methyl parathion	EHW	A
P057	Fluoroacetamide	EHW	B H	U029	Methyl bromide	EHW	H
P058	Fluoroacetic acid, sodium salt	EHW	A H	U045	Methyl chloride	EHW	H I
U122	Formaldehyde	EHW	C	U156	Methyl chlorocarbonate	EHW	B H I
P065	Fulminic acid, mercury (II) salt	EHW	R ?	U226	Methylchloroform	EHW	C H
U125	2-Furancarboxaldehyde	EHW	C I	U157	3-Methylcholanthrene	EHW	H P
U147	2,5-Furandione	EHW	C	U158	4,4'-Methylenebis(2-chloroaniline)	EHW	H +
U125	Furfural	EHW	C I	U132	2,2'-Methylenebis(3,4,6-trichlorophenol)	EHW	C H
U126	Glycidylaldehyde	EHW	C +	U068	Methylene bromide	EHW	C H +
U163	Guanidine, N-nitroso-N-methyl-N'nitro-	EHW	C +	U080	Methylene chloride	EHW	C H
P059	Heptachlor	EHW	X H +	U122	Methylene oxide	EHW	C
U127	Hexachlorobenzene	EHW	H	U160	Methyl ethyl ketone peroxide	EHW	B R
U128	Hexachlorobutadiene	EHW	C	U138	Methyl iodide	EHW	H +
U129	Hexachlorocyclohexane (gamma isomer)	EHW	H +	U163	N-Methyl-N'-nitro-N-nitrosoguanidine	EHW	C + R
U130	Hexachlorocyclopentadiene	EHW	X H	U010	Mitomycin C	EHW	B +
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, endo-1,4,5,8-dimethanonaphthalene	EHW	X H	U165	Naphthalene	EHW	B
P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4,5,8-dimethanonaphthalene	EHW	X H +	U047	Naphthalene, 2-chloro-	EHW	D H
U131	Hexachloroethane	EHW	H	U166	1,4-Naphthalenedione	EHW	C
P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene	EHW	B H	U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'-diyl)]-bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt	EHW	H +
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, exodimethanonaphthalene	EHW	B H	U166	1,4-Naphthaquinone	EHW	C
P060	Hexachlorohexahydro-endo, endo-dimethanonaphthalene	EHW	B H	U167	1-Naphthylamine	EHW	B +
U132	Hexachlorophene	EHW	C H	U168	2-Naphthylamine	EHW	B +
U243	Hexachloropropene	EHW	H	U167	alpha-Naphthylamine	EHW	B +
P062	Hexaethyl tetraphosphate	EHW	B	U168	beta-Naphthylamine	EHW	B +
U133	Hydrazine	EHW	B + R	U026	2-Naphthylamine, N,N'-bis(2-chloro-methyl)-	EHW	H +
P116	Hydrazinecarbothioamide	EHW	B	P072	alpha-Naphthylthiourea	EHW	B
U099	Hydrazine, 1,2-dimethyl-	EHW	C + I	P073	Nickel carbonyl	EHW	B
U109	Hydrazine, 1,2-diphenyl-	EHW	C	P074	Nickel cyanide	EHW	D R ?
P068	Hydrazine, methyl-	EHW	A I	P073	Nickel tetracarbonyl	EHW	B
P063	Hydrocyanic acid	EHW	A	P075	Nicotine and salts	EHW	B
P063	Hydrogen cyanide	EHW	A	P076	Nitric oxide	EHW	B
P096	Hydrogen phosphide	EHW	B I	P077	p-Nitroaniline	EHW	D ?
U135	Hydrogen sulfide	EHW	B I	U169	Nitrobenzene	EHW	C I
U096	Hydroperoxide, 1-methyl-1-phenylethyl-	EHW	C R	P078	Nitrogen dioxide	EHW	A
U245	Indomethacin	EHW	B H	P076	Nitrogen (II) oxide	EHW	B
P064	Isocyanic acid, methyl ester	EHW	I ?	P078	Nitrogen (IV) oxide	EHW	A
P007	3(2H)-Isoxazalone, 5-(aminomethyl)-	EHW	B	P081	Nitroglycerine	EHW	R ?
U142	Kepon	EHW	X H	U170	p-Nitrophenol	EHW	C
				U171	2-Nitropropane	EHW	C I
				U174	N-Nitrosodiethylamine	EHW	C +
				P082	N-Nitrosodimethylamine	EHW	B +
				U176	N-Nitroso-N-ethylurea	EHW	C +
				U177	N-Nitroso-N-methylurea	EHW	C +

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U178	N-Nitroso-N-methylurethane	EHW	C +	P003	2-Propenal	EHW	X
P084	N-Nitrosomethylvinylamine	EHW	B +	U007	2-Propenamide	EHW	C
U179	N-Nitrosopiperidine	EHW	C +	U084	Propene, 1,3-dichloro-	EHW	C H
U111	N-Nitroso-N-propylamine	EHW	C +	U243	1-Propene, 1,1,2,3,3,3-hexachloro-	EHW	H
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite	EHW	X H	U009	2-Propenenitrile	EHW	C + I
P085	Octamethylpyrophosphoramidate	EHW	A	U152	2-Propenenitrile, 2-methyl-	EHW	B I
P087	Osmium oxide	EHW	B	U008	2-Propenoic acid	EHW	C O I
P087	Osmium tetroxide	EHW	B	P005	2-Propen-1-ol	EHW	B I
P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	EHW	B	U233	Propionic acid, 2-(2,4,5-trichlorophenoxy)-	EHW	B H
U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro-ethyl)amino]tetrahydro-, oxide 2-	EHW	C H I +	U194	n-Propylamine	EHW	C I
U115	Oxirane	EW H	C I	U083	Propylene dichloride	EHW	C H I
U041	Oxirane, 2-(chloromethyl)-	EHW	C H + I	P067	1,2-Propylenimine	EHW	B + I
P089	Parathion	EHW	X	P102	2-Propyn-1-ol	EHW	X
U183	Pentachlorobenzene	EHW	H	P008	4-Pyridinamine	EHW	B
U184	Pentachloroethane	EHW	A H	P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	EHW	B
U185	Pentachloronitrobenzene	EHW	D H +	U196	Pyridine	EHW	C I
U242	Pentachlorophenol	EHW	A H	U179	Pyridine, hexahydro-N-nitroso-	EHW	C +
U188	Phenol	EHW	C	U191	Pyridine, 2-methyl-	EHW	C
P034	Phenol, 2-cyclohexyl-4,6-dinitro-	EHW	C	P111	Pyrophosphoric acid, tetraethyl ester	EHW	A
P048	Phenol, 2,4-dinitro-	EHW	B	U201	Resorcinol	EHW	C
P047	Phenol, 2,4-dinitro-6-methyl-, and salts	EHW	B	P103	Selenourea	EHW	B
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	EHW	B	U015	L-Serine, diazoacetate (ester)	EHW	C +
P009	Phenol, 2,4,6-trinitro-, ammonium salt	EHW	R	P104	Silver cyanide	EHW	C
U048	Phenol, 2-chloro-	EHW	D H	U233	Silvex	EHW	B H
U039	Phenol, 4-chloro-3-methyl-	EHW	H	P105	Sodium azide	EHW	A
U081	Phenol, 2,4-dichloro-	EHW	D H	P106	Sodium cyanide	EHW	A
U082	Phenol, 2,6-dichloro-	EHW	D H	P107	Strontium sulfide	EHW	R
U170	Phenol, 4-nitro-	EHW	C	P108	Strychnidin-10-one, and salts	EHW	B
U242	Phenol, pentachloro-	EHW	A H	P018	Strychnidin-10-one, 2,3-dimethoxy-	EHW	A
U212	Phenol, 2,3,4,6-tetrachloro-	EHW	C H	P108	Strychnine and salts	EHW	B
U230	Phenol, 2,4,5-trichloro-	EHW	A H	U135	Sulfur hydride	EHW	B I
U231	Phenol, 2,4,6-trichloro-	EHW	A H	U103	Sulfuric acid, dimethyl ester	EHW	C O +
P036	Phenyl dichloroarsine	EHW	B H	P115	Sulfuric acid, thallium (I) salt	EHW	B
P092	Phenylmercuric acetate	EHW	B	U189	Sulfur phosphide	EHW	B I R
P093	N-Phenylthiourea	EHW	A	U232	2,4,5-T	EHW	B H +
P094	Phorate	EHW	X	U207	1,2,4,5-Tetrachlorobenzene	EHW	D H
P095	Phosgene	EHW	B H	U208	1,1,1,2-Tetrachloroethane	EHW	H
P096	Phosphine	EHW	B I	U209	1,1,2,2-Tetrachloroethane	EHW	H
P041	Phosphoric acid, diethyl p-nitrophenyl ester	EHW	A	U210	Tetrachloroethylene	EHW	C H
P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	EHW	A	U212	2,3,4,6-Tetrachlorophenol	EHW	C H
P043	Phosphorofluoridic acid, bis(1-methyl-ethyl)-ester	EHW	B H	P109	Tetraethyldithiopyrophosphate	EHW	A
P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester	EHW	X	P110	Tetraethyl lead	EHW	A
P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester	EHW	A	P111	Tetraethylpyrophosphate	EHW	A
P089	Phosphorothioic acid, O,O-diethyl O-(p-ni-trophenyl)ester	EHW	X	P112	Tetranitromethane	EHW	A R
P040	Phosphorothioic acid, O,O-diethyl O-pyra-zinyl ester	EHW	A	P062	Tetraphosphoric acid, hexaethyl ester	EHW	B
U189	Phosphorous sulfide	EHW	B I R	P113	Thallic oxide	EHW	B
U190	Phthalic anhydride	EHW	C	P113	Thallium (III) oxide	EHW	B
U191	2-Picoline	EHW	C	P114	Thallium (I) selenide	EHW	C
P110	Plumbane, tetraethyl-	EHW	A	P115	Thallium (I) sulfate	EHW	B
P098	Potassium cyanide	EHW	A	P045	Thiofanox	EHW	B
P099	Potassium silver cyanide	EHW	A	P049	Thioimidodicarbonic diamide	EHW	A
P070	Propanal, 2-methyl-2(methylthio)-O-[(methylamino)carbonyl]oxime	EHW	B	U153	Thiomethanol	EHW	B I
U194	1-Propanamine	EHW	C I	P014	Thiophenol	EHW	A
U110	1-Propanamine, N-propyl-	EHW	C I	P116	Thiosemicarbazide	EHW	B H +
U066	Propane, 1,2-dibromo-3-chloro-	EHW	C H +	U219	Thiourea	EHW	C +
U149	Propanedinitrile	EHW	C	P026	Thiourea, (2-chlorophenyl)-	EHW	A H
P101	Propanenitrile	EHW	B	P072	Thiourea, 1-naphthalenyl-	EHW	B
P027	Propanenitrile, 3-chloro-	EHW	B H	P093	Thiourea, phenyl-	EHW	A
P079	Propanenitrile, 2-hydroxy-2-methyl-	EHW	A	U220	Toluene	EHW	C I
U171	Propane, 2-nitro-	EHW	C I	U223	Toluene diisocyanate	EHW	B R
U027	Propane, 2,2-oxylbis[2-chloro-	EHW	C H O	P123	Toxaphene	EHW	X H
P081	1,2,3-Propanetriol, trinitrate-	EHW	R ?	U226	1,1,1-Trichloroethane	EHW	C H
U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)	EHW	D H	U227	1,1,2-Trichloroethane	EHW	C H
U126	1-Propanol, 2,3-epoxy-	EHW	C +	U228	Trichloroethene	EHW	C H +
P017	2-Propanone, 1-bromo-	EHW	C H	U228	Trichloroethylene	EHW	C H +
P102	Propargyl alcohol	EHW	X	P118	Trichloromethanethiol	EHW	H
				U121	Trichloromonofluoromethane	EHW	H
				U230	2,4,5-Trichlorophenol	EHW	A H
				U231	2,4,6-Trichlorophenol	EHW	A H
				U232	2,4,5-Trichlorophenoxyacetic acid	EHW	B H +
				U235	Tris(2,3-dibromopropyl) phosphate	EHW	D H
				U236	Trypan blue	EHW	H +
				U237	Uracil, 5[bis(2-chloromethyl)amino]-	EHW	B H +
				U237	Uracil mustard	EHW	B H +
				P119	Vanadic acid, ammonium salt	EHW	B
				P120	Vanadium pentoxide	EHW	B
				P120	Vanadium (V) oxide	EHW	B
				U043	Vinyl chloride	EHW	D H +
				P001	Warfarin	EHW	A
				U239	Xylene	EHW	C I

Dangerous Waste Regulations

173-303-9903

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
P121	Zinc cyanide	EHW	C	U123	Formic Acid	DW	D O
P122	Zinc phosphide	EHW	B R	U124	Furan	DW	I
MODERATELY DANGEROUS CHEMICAL PRODUCTS				U213	Furan, tetrahydro-	DW	I
U187	Acetamide, N-(4-ethoxyphenyl)-	DW	D +	U124	Furfuran	DW	I
U005	Acetamide, N-9H-fluoren-2-yl-	DW	?	U206	D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosourcido)-	DW	+
U112	Acetic acid, ethyl ester	DW	D I	U086	Hydraxine, 1,2-diethyl-	DW	+
U214	Acetic acid, thallium(I) salt	DW	?	U098	Hydrazine, 1,1-dimethyl-	DW	+ I
U002	Acetone	DW	D I	U134	Hydrofluoric acid	DW	D O
U004	Acetophenone	DW	D	U134	Hydrogen fluoride	DW	D O
U005	2-Acetylaminofluorene	DW	?	U136	Hydroxydimethylarsine oxide	DW	D
U150	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-, L-	DW	+	U116	2-Imidazolidinethione	DW	D +
U011	Amitrole	DW	D +	U137	Indeno[1,2,3-cd]pyrene	DW	+
U014	Auramine	DW	+	U139	Iron dextran	DW	+
U016	Benz[c]acridine	DW	+	U140	Isobutyl alcohol	DW	D I
U016	3,4-Benzacridine	DW	+	U141	Isosafrole	DW	D +
U014	Benzenamine, 4,4-carbonimidoylbis(N,N-dimethyl-	DW	+	U145	Lead phosphate	DW	+
U222	Benzenamine, 2-methyl-, hydrochloride	DW	D +	U146	Lead subacetate	DW	+
U181	Benzenamine, 2-methyl-5-nitro	DW	D	U148	Maleic hydrazide	DW	D
U028	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester	DW	?	U150	Melphalan	DW	+
U069	1,2-Benzenedicarboxylic acid, dibutyl ester	DW	D	U119	Methanesulfonic acid, ethyl ester	DW	+
U088	1,2-Benzenedicarboxylic acid, diethyl ester	DW	?	U123	Methanoic acid	DW	D O
U102	1,2-Benzenedicarboxylic acid, dimethyl ester	DW	?	U154	Methanol	DW	D I
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester	DW	?	U155	Methapyrilene	DW	D
U203	Benzene, 1,2-methylenedioxy-4-allyl-	DW	D +	U154	Methyl alcohol	DW	D I
U141	Benzene, 1,2-methylenedioxy-4-propenyl-	DW	D +	U186	1-Methylbutadiene	DW	D I
U090	Benzene, 1,2-methylenedioxy-4-propyl-	DW	D +	U159	Methyl ethyl ketone	DW	D I
U234	Benzene, 1,3,5-trinitro-	DW	D R	U161	Methyl isobutyl ketone	DW	D I
U202	1,2-Benzisothiazolin-3-one, 1,1-dioxide, and salts	DW	+	U162	Methyl methacrylate	DW	D I
U120	Benzo[j,k]fluorene	DW	D	U161	4-Methyl-2-pentanone	DW	+
U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-	DW	D +	U164	Methylthiouracil	DW	+
U244	Bis(dimethylthiocarbomoyl) disulfide	DW	D	U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxyl]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	DW	+
U028	Bis(2-ethoxythyl) phthalate	DW	?	U172	N-Nitrosodi-n-butylamine	DW	D +
U172	1-Butanamine, N-butyl-N-nitroso-	DW	D +	U173	N-Nitrosodiethanolamine	DW	+
U031	1-Butanol	DW	D I	U180	N-Nitrosopyrrolidine	DW	D +
U159	2-Butanone	DW	D I	U181	5-Nitro-o-toluidine	DW	D
U031	n-Butyl alcohol	DW	D I	U139	1,2-Oxathiolane, 2,2-dioxide	DW	+
U136	Cacodylic acid	DW	D	U182	Paraldehyde	DW	D I
U238	Carbamic acid, ethyl ester	DW	+	U186	1,3-Pentadiene	DW	D I
U215	Carbonic acid, dithallium(I) salt	DW	?	U187	Phenacetin	DW	D +
U059	Daunomycin	DW	+	U101	Phenol, 2,4-dimethyl-	DW	D
U221	Diaminotoluene	DW	?	U137	1,10-(1,2-phenylene)pyrene	DW	+
U069	Dibutyl phthalate	DW	D	U145	Phosphoric acid, Lead salt	DW	+
U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide	DW	?	U087	Phosphorodithioic acid, O,O-diethyl-,S-methyl ester	DW	?
U108	1,4-Diethylene dioxide	DW	D +	U192	Pronamide	DW	?
U086	N,N-Diethylhydrazine	DW	+	U193	1,3-Propane sultone	DW	+
U088	Diethyl phthalate	DW	?	U140	1-Propanol, 2-methyl-	DW	D I
U089	Diethylstilbestrol	DW	+	U002	2-Propanone	DW	D I
U148	1,2-Dihydro-3,6-pyridinedione	DW	D	U113	2-Propanoic acid, ethyl ester	DW	D I
U090	Dihydrosafrole	DW	D +	U118	2-Propanoic acid, 2-methyl-, ethyl ester	DW	I
U091	3,3'-Dimethoxybenzidine	DW	D +	U162	2-Propanoic acid, 2-methyl-, methyl ester	DW	D I
U098	1,1-Dimethylhydrazine	DW	+ I	U155	Pyridine, 2-[(2dimethylamino)-2-thenylamino]-	DW	D
U101	2,4-Dimethylphenol	DW	D	U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	DW	+
U102	Dimethyl phthalate	DW	?	U180	Pyrrrole, tetrahydro-N-nitroso-	DW	D +
U107	Di-n-octyl phthalate	DW	?	U200	Reserpine	DW	?
U108	1,4-Dioxane	DW	D +	U202	Saccharin and salts	DW	+
U117	Ethane, 1,1'-oxybis-	DW	D I	U203	Safrole	DW	D +
U218	Ethanethioamide	DW	+	U204	Seleniousacid	DW	O
U173	Ethanol, 2,2-(nitrosoimino)bis-	DW	+	U204	Selenium dioxide	DW	O
U004	Ethanone, 1-phenyl-	DW	D	U205	Selenium disulfide	DW	R
U112	Ethyl acetate	DW	D I	U089	4,4'-Stilbene diol, alpha,alpha'-diethyl-	DW	+
U113	Ethyl acrylate	DW	D I	U206	Streptozotocin	DW	+
U238	Ethyl carbamate (urethan)	DW	+	U205	Sulfur selenide	DW	R
U116	Ethylene thiourea	DW	D +	U213	Tetrahydrofuran	DW	I
U117	Ethyl ether	DW	D I	U214	Thallium(1) acetate	DW	?
U118	Ethyl methacrylate	DW	I	U215	Thallium(1) carbonate	DW	?
U119	Ethyl methanesulfonate	DW	+	U216	Thallium(1) chloride	DW	?
U139	Ferric dextran	DW	+	U217	Thallium(1) nitrate	DW	?
U120	Fluoranthene	DW	D	U218	Thioacetamide	DW	+
				U244	Thiran	DW	D
				U221	Toluenediamine	DW	?
				U222	O-Toluidine hydrochloride	DW	D +
				U011	1H-1,2,4-Triazol-3-amine	DW	D +

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U234	sym-Trinitrobenzene	DW	D R
U182	1,3,5-Trioxane, 2,4,5-trimethyl-	DW	D 1
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester	DW	?

- \* EHW = Extremely Hazardous Waste
- DW = Dangerous Waste
- X = Toxic, Category X
- A = Toxic, Category A
- B = Toxic, Category B
- C = Toxic, Category C
- D = Toxic, Category D
- H = Persistent, Halogenated Hydrocarbon
- O = Corrosive
- P = Persistent, Polycyclic Aromatic Hydrocarbon
- + = IARC Animal or Human, Positive or Suspected Carcinogen
- I = Ignitable
- R = Reactive
- EP = Extraction Procedure Toxicity

[Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-9903, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-9903, filed 2/10/82.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

**WAC 173-303-9904 Dangerous waste sources list.**

**DANGEROUS WASTE SOURCES LIST**

Dangerous Waste No.	Sources
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**Nonspecific Sources**

**Generic:**

- F001 The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)
- F002 The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents. (See footnote 1, below.)
- F003 The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.

Dangerous Waste No.	Sources
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- F004 The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; and the still bottoms from the recovery of these solvents.
- F005 The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine; and the still bottoms from the recovery of these solvents.
- F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
- F019 Wastewater treatment sludges from the chemical conversion coating of aluminum.
- F007 Spent cyanide plating bath solutions from electroplating operations.
- F008 Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
- F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
- F010 Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.
- F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
- F012 Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process.
- F020 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.)
- F021 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a

Dangerous Waste No.	Sources
	reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027.
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (See footnote 1, below.) (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed under specific sources, below.)
1	Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who

Dangerous Waste No.	Sources
	know that their waste F001 or F002 contains greater than one percent of these listed halogenated solvents to designate their waste EHW.

**Specific Sources**

**Wood Preservation:**

K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (See footnote 2, below.)

**Inorganic Pigments:**

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.

K003 Wastewater treatment sludge from the production of molybdate orange pigments.

K004 Wastewater treatment sludge from the production of zinc yellow pigments

K005 Wastewater treatment sludge from the production of chrome green pigments.

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).

K007 Wastewater treatment sludge from the production of iron blue pigments.

K008 Oven residue from the production of chrome oxide green pigments.

**Organic Chemicals:**

K009 Distillation bottoms from the production of acetaldehyde from ethylene.

K010 Distillation side cuts from the production of acetaldehyde from ethylene.

K011 Bottom stream from the wastewater stripper in the production of acrylonitrile.

K013 Bottom stream from the acetonitrile column in the production of acrylonitrile.

K014 Bottoms from the acetonitrile purification column in the production of acrylonitrile.

K015 Still bottoms from the distillation of benzyl chloride. (See footnote 2, below.)

K016 Heavy ends or distillation residues from the production of carbon tetrachloride. (See footnote 2, below.)

K017 Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (See footnote 2, below.)

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K018	Heavy ends from the fractionation column in ethyl chloride production. (See footnote 2, below.)	K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. (See footnote 2, below.)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (See footnote 2, below.)	K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (See footnote 2, below.)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (See footnote 2, below.)	<b>Explosives:</b>	
K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (See footnote 2, below.)	K044	Wastewater treatment sludges from the manufacturing and processing of explosives.
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	K045	Spent carbon from the treatment of wastewater containing explosives.
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	K047	Pink/red water from TNT operations.
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	<b>Inorganic Chemicals:</b>	
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (See footnote 2, below.)
K026	Stripping still tails from the production of methyl ethyl pyridines.	K106	Wastewater treatment sludge from the mercury cell process in chlorine production.
K027	Centrifuge and distillation residues from toluene diisocyanate production.	<b>Petroleum Refining:</b>	
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (See footnote 2, below.)	K048	Dissolved air flotation (DAF) float from the petroleum refining industry.
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (See footnote 2, below.)	K049	Slop oil emulsion solids from the petroleum refining industry.
K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (See footnote 2, below.)	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (See footnote 2, below.)	K051	API separator sludge from the petroleum refining industry.
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (See footnote 2, below.)	K052	Tank bottoms (leaded) from the petroleum refining industry.
K083	Distillation bottoms from aniline production.	<b>Iron and Steel:</b>	
K103	Process residues from aniline extraction from the production of aniline.	K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K104	Combined wastewater streams generated from nitrobenzene/aniline production.	K062	Spent pickle liquor from steel finishing operations.
		<b>Pesticides:</b>	
		K031	Byproduct salts generated in the production of MSMA and cacodylic acid.
		K032	Wastewater treatment sludge from the production of chlordane. (See footnote 3, below.)

Dangerous Waste No.	Sources
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (See footnote 3, below.)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (See footnote 3, below.)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (See footnote 3, below.)
K035	Wastewater treatment sludges generated in the production of creosote.
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.
K037	Wastewater treatment sludges from the production of disulfoton.
K038	Wastewater from the washing and stripping of phorate production. (See footnote 3, below.)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (See footnote 3, below.)
K040	Wastewater treatment sludge from the production of phorate. (See footnote 3, below.)
K041	Wastewater treatment sludge from the production of toxaphene. (See footnote 3, below.)
K098	Untreated process wastewater from the production of toxaphene. (See footnote 3, below.)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (See footnote 2, below.)
K043	2,6-Dichlorophenol waste from the production of 2,4-D. (See footnote 2, below.)
K099	Untreated wastewater from the production of 2,4-D. (See footnote 2, below.)
<b>Secondary Lead:</b>	
K069	Emission control dust/sludge from secondary lead smelting.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.
<b>Veterinary Pharmaceuticals:</b>	
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K101	Distillation tar residues from the distillation of aniline-based compounds in the production

Dangerous Waste No.	Sources
	of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
<b>Ink Formulation:</b>	
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.
<b>Coking:</b>	
K060	Ammonia still-lime sludge from coking operations.
K087	Decanter tank tar sludge from coking operations.
2	These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.
3	These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste EHW.
<b>State Sources</b>	
W001	The following wastes generated from the salvaging, rebuilding, or discarding of transformers or capacitors which contain polychlorinated biphenyls (PCB): Cooling and insulating fluids; cores, including core papers, from unrinsed transformers and capacitors; transformers and capacitors which will no longer be used for their intended use, except for those transformers or capacitors which have been rinsed; and, rinsate from the rinsing of transformers and capacitors. For the purposes of this listing, the rinsing of PCB containing items shall be conducted as follows: First, the item is drained of all free flowing liquid; second, the item is filled with solvent and allowed to stand for at least



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Sources

eighteen hours; last, the item is drained thoroughly and the solvent is collected. Solvents may include kerosene, xylene, toluene and other solvents in which PCB are readily soluble. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if his PCB waste is excluded from the requirements of chapter 173-303 WAC.)

[Statutory Authority: Chapter 70.105 RCW. 85-09-042 (Order DE-85-02), § 173-303-9904, filed 4/15/85; 84-09-088 (Order DE 83-36), § 173-303-9904, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-9904, filed 2/10/82.]

**WAC 173-303-9905 Dangerous waste constituents list.**

Acetonitrile [Ethanenitrile]  
Acetophenone (Ethanone, 1-phenyl)  
3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)  
2-Acetylaminofluorene (Acetamide, N-9H-fluoren-2-yl)-  
Acetyl chloride (Ethanoyl chloride)  
1-Acetyl-2-thiourea (Acetamide, N-aminothioxomethyl)-  
Acrolein (2-Propenal)  
Acrylamide (2-Propenamamide)  
Acrylonitrile (2-Propenenitrile)  
Aflatoxins  
Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo,exo-1,4:5,8-Dimethanonaphthalene)  
Allyl alcohol (2-Propen-1-ol)  
Aluminum phosphide  
4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)  
6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-((amino-carbonyl)oxy)methyl)-1,1a,2,8,8a,8b-hexahydro-8amethoxy-5-methy-)  
5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxazolone, 5-(aminomethyl)-)-4  
Aminopyridine (4-Pyridinamine)<sup>1</sup>  
Amitrole (1H-1,2,4-Triazol-3-amine)  
Aniline (Benzenamine)  
Antimony and compounds, N.O.S.\*  
Aramite (Sulfurous acid, 2-chloroethyl- 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester)  
Arsenic and compounds, N.O.S.\*

Arsenic acid (Orthoarsenic acid)  
Arsenic pentoxide (Arsenic (V) oxide)  
Arsenic trioxide (Arsenic (III) oxide)  
Auramine (Benzenamine, 4,4-carbonimidoylbis[N,N-Dimethyl-monohydrochloride)  
Azaserine (L-Serine, diazoacetate (ester))  
Barium and compounds, N.O.S.\*  
Barium cyanide  
Benz[c]acridine (3,4-Benzacridine)  
Benz[a]anthracene (1,2-Benzanthracene)  
Benzene (Cyclohexatriene)  
Benzenearsonic acid (Arsonic acid, phenyl-)  
Benzene, dichloromethyl- (Benzal chloride)  
Benzenethiol (Thiophenol)  
Benzidine ([1,1'-Biphenyl]-4,4'diamine)  
Benzo[b]fluoranthene (2,3-Benzofluoranthene)  
Benzo[j]fluoranthene (7,8-Benzofluoranthene)  
Benzo[a]pyrene (3,4-Benzopyrene)  
p Benzoquinone (1,4-Cyclohexadienedione)  
Benzotrichloride (Benzene, trichloromethyl-)  
Benzyl chloride (Benzene, (chloromethyl)-)  
Beryllium and compounds, N.O.S.\*  
Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])  
Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])  
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)  
Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])  
Bis(chloromethyl) ether (Methane, oxybis[chloro-])  
Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)  
Bromoacetone (2-Propanone, 1-bromo-)  
Bromomethane (Methyl bromide)  
4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)  
Brucine (Strychnidin-10-one, 2,3-dimethoxy-)  
2-Butanone peroxide (Methyl ethyl ketone, peroxide)  
Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)  
2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)  
Cadmium and compounds, N.O.S.\*  
Calcium chromate (Chromic acid, calcium salt)  
Calcium cyanide  
Carbon disulfide (Carbon bisulfide)  
Carbon oxyfluoride (Carbonyl fluoride)  
Chloral (Acetaldehyde, trichloro-)  
Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)  
Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma

- isomers)
- Chlorinated benzenes, N.O.S.\*
- Chlorinated ethane, N.O.S.\*
- Chlorinated fluorocarbons, N.O.S.\*
- Chlorinated naphthalene, N.O.S.\*
- Chlorinated phenol, N.O.S.\*
- Chloroacetaldehyde (Acetaldehyde, chloro-)
- Chloroalkyl ethers, N.O.S.\*
- P-Chloroaniline (Benzenamine, 4-chloro-)
- Chlorobenzene (Benzene, chloro-)
- Chlorobenzilate (Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester)
- p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
- 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
- 2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
- Chloroform (Methane, trichloro-)
- Chloromethane (Methyl chloride)
- Chloromethyl methyl ether (Methane, chloromethoxy-)
- 2-Chloronaphthalene (Naphthalene, beta-chloro-)
- 2-Chlorophenol (Phenol, o-chloro-)
- 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
- 3-Chloropropionitrile (Propanenitrile, 3-chloro-)
- Chromium and compounds, N.O.S.\*
- Chrysene (1,2-Benzphenanthrene)
- Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
- Coal tars
- Copper cyanide
- Creosote (Creosote, wood)
- Cresols (Cresylic acid) (Phenol, methyl-)
- Crotonaldehyde (2-Butenal)
- Cyanides (soluble salts and complexes), N.O.S.\*
- Cyanogen (Ethanedinitrile)
- Cyanogen bromide (Bromine cyanide)
- Cyanogen chloride (Chlorine cyanide)
- Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
- 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
- Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
- Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
- DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
- DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
- DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
- Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
- Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
- Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
- Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
- 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
- Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
- Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
- Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
- 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
- 1,2-Dibromoethane (Ethylene dibromide)
- Dibromomethane (Methylene bromide)
- Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
- o-Dichlorobenzene (Benzene, 1,2-dichloro-)
- m-Dichlorobenzene (Benzene, 1,3-dichloro-)
- p-Dichlorobenzene (Benzene, 1,4-dichloro-)
- Dichlorobenzene, N.O.S.\* (Benzene, dichloro-, N.O.S.\*)
- 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
- 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
- Dichlorodifluoromethane (Methane, dichlorodifluoro-)
- 1,1-Dichloroethane (Ethylidene dichloride)
- 1,2-Dichloroethane (Ethylene dichloride)
- trans-1,2-Dichloroethene (1,2-Dichloroethylene)
- Dichloroethylene, N.O.S.\* (Ethene, dichloro-, N.O.S.\*)
- 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
- Dichloromethane (Methylene chloride)
- 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
- 2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
- 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
- Dichlorophenylarsine (Phenyl dichloroarsine)
- Dichloropropane, N.O.S.\* (Propane, dichloro-, N.O.S.\*)
- 1,2-Dichloropropane (Propylene dichloride)
- Dichloropropanol, N.O.S.\* (Propanol, dichloro-, N.O.S.\*)
- Dichloropropene, N.O.S.\* (Propene, dichloro-, N.O.S.\*)
- 1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)
- Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
- 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
- Diethylarsine (Arsine, diethyl-)
- N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
- O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)

- O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
- Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
- O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
- Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
- Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
- 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
- Diisopropylfluorophosphate (DFP) (Phosphorofluoric acid, bis(1-methylethyl) ester)
- Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
- 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
- p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
- 7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
- 3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
- Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
- 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
- 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
- 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
- alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
- 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
- Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
- Dimethyl sulfate (Sulfuric acid, dimethyl ester)
- Dinitrobenzene, N.O.S.\* (Benzene, dinitro-, N.O.S.\*)
- 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
- 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
- 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
- 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
- Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
- 1,4-Dioxane (1,4-Diethylene oxide)
- Diphenylamine (Benzenamine, N-Phenyl-)
- 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
- Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
- Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
- 2,4-Dithiobiuret (Thioimidodicarbonic diamide)
- Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
- Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
- Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
- Ethyl cyanide (propanenitrile)
- Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylobiscarbamodithioic acid, salts and esters)
- Ethyleneimine (Aziridine)
- Ethylene oxide (Oxirane)
- Ethylenethiourea (2-Imidazolidinethione)
- Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
- Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
- Fluoranthene (Benzo[j,k]fluorene)
- Fluorine
- 2-Fluoroacetamide (Acetamide, 2-fluoro-)
- Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
- Formaldehyde (Methylene, oxide)
- Formic acid (Methanoic acid)
- Glycidylaldehyde (1-Propanol-2-3-epoxy)
- Halomethane, N.O.S.\*
- Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
- Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
- Hexachlorobenzene (Benzene, hexachloro-)
- Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)
- Hexachlorocyclohexane (all isomers) (Lindane and isomers)
- Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
- Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)
- 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonaphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
- Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
- Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
- Hexaethyl tetraphosphate (Tetraphosphoric

acid, hexaethyl ester)  
 Hydrazine (Diamine)  
 Hydrocyanic acid (Hydrogen cyanide)  
 Hydrofluoric acid (Hydrogen fluoride)  
 Hydrogen sulfide (Sulfur hydride)  
 Hydroxydimethylarsine oxide (Cacodylic acid)  
 Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)  
 Iodomethane (Methyl iodide)  
 Iron Dextran (Ferric dextran)  
 Isocyanic acid, methyl ester (Methyl isocyanate)  
 Isobutyl alcohol (1-Propanol, 2-methyl-)  
 Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)  
 Kapone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalen-2-one)  
 Lasiocarpine (2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)  
 Lead and compounds, N.O.S.\*  
 Lead acetate (Acetic acid, lead salt)  
 Lead phosphate (Phosphoric acid, lead salt)  
 Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)  
 Maleic anhydride (2,5-Furandione)  
 Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)  
 Malononitrile (Propanedinitrile)  
 Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-, L-)  
 Mercury Fulminate (Fulminic acid, mercury salt)  
 Mercury and compounds, N.O.S.\*  
 Methacrylonitrile (2-Propenenitrile, 2-methyl-)  
 Methanethiol (Thiomethanol)  
 Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)  
 Metholonyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester)  
 Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)  
 2-Methylaziridine (1,2-Propylenimine)  
 3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)  
 Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)  
 4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-)  
 Methyl ethyl ketone (MEK) (2-Butanone)  
 Methyl hydrazine (Hydrazine, methyl-)  
 2-Methylactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)  
 Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)  
 Methyl methanesulfonate (Methanesulfonic acid, methyl ester)  
 2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime (Propanal, 2-

methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime)  
 N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitros-N-methyl-N'nitro-)  
 Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)  
 Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)  
 Mustard gas (Sulfide, bis(2-chloroethyl)-)  
 Naphthalene  
 1,4-Naphthoquinone (1,4-Naphthalenedione)  
 1-Naphthylamine (alpha-Naphthylamine)  
 2-Naphthylamine (beta-Naphthylamine)  
 1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)  
 Nickel and compounds, N.O.S.\*  
 Nickel carbonyl (Nickel tetracarbonyl)  
 Nickel cyanide (nickel (II) cyanide)  
 Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)  
 Nitric oxide (Nitrogen (II) oxide)  
 p-Nitroaniline (Benzenamine, 4-nitro-)  
 Nitrobenzene (Benzene, nitro-)  
 Nitrogen dioxide (Nitrogen (IV) oxide)  
 Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)  
 Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)  
 Nitroglycerine (1,2,3-Propanetriol, trinitrate)  
 4-Nitrophenol (Phenol, 4-nitro-)  
 4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)  
 Nitrosamine, N.O.S.\*  
 N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)  
 N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)  
 N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)  
 N-Nitrosodimethylamine (Dimethylnitrosamine)  
 N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)  
 N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)  
 N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)  
 N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)  
 N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)  
 N-Nitrosomorpholine (Morpholine, N-nitroso-)  
 N-Nitrosornicotine (Nornicotine, N-nitroso-)  
 N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)  
 Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)

- N-Nitrososarcosine (Sarcosine, N-nitroso-)  
 5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)  
 Octamethylpyrophosphoramidate (Diphosphoramidate, octamethyl-)  
 Osmium tetroxide (Osmium (VIII) oxide)  
 7-Ocabcyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)  
 Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)  
 Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester)  
 Pentachlorobenzene (Benzene, pentachloro-)  
 Pentachloroethane (Ethane, pentachloro-)  
 Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)  
 Pentachlorophenol (Phenol, pentachloro-)  
 Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)  
 Phenol (Benzene, hydroxy-)  
 Phenylenediamine (Benzenediamine)  
 Phenylmercury acetate (Mercury, acetatophenyl-)  
 N-Phenylthiourea (Thiourea, phenyl-)  
 Phosgene (Carbonyl chloride)  
 Phosphine (Hydrogen phosphide)  
 Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)  
 Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)  
 Phthalic acid esters, N.O.S.\* (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.\*)  
 Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)  
 2-Picoline (Pyridine, 2-methyl-)  
 Polychlorinated biphenyl, N.O.S.\*  
 Potassium cyanide  
 Potassium silver cyanide (Argentate(1-), dicyano-, potassium)  
 Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)  
 1,3-Propanesultone (1,2-Oxathiolane, 2,2-dioxide)  
 n-Propylamine (1-Propane)  
 Propylthiouracil (Undecamethylenediamine, N,N'-bis(2-chlorobenzyl)-, dihydrochloride)  
 2-Propyn-1-ol (Propargyl alcohol)  
 Pyridine  
 Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester)  
 Resorcinol (1,3-Benzenediol)  
 Saccharin and salts (1,2-Benzoisothiazolin-3-one, 1,1-dioxide, and salts)  
 Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)  
 Selenious acid (Selenium dioxide)  
 Selenium and compounds, N.O.S.\*  
 Selenium sulfide (Sulfur selenide)  
 Selenourea (Carbamimidoseleonic acid)  
 Silver and compounds, N.O.S.\*  
 Silver cyanide  
 Sodium cyanide  
 Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)  
 Strontium sulfide  
 Strychnine and salts (Strychnidin-10-one, and salts)  
 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)  
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)  
 Tetrachloroethane, N.O.S.\* (Ethane, tetrachloro-, N.O.S.\*)  
 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)  
 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)  
 Tetrachlorethylene (Ethane, 1,1,2,2-tetrachloro-)  
 Tetrachloromethane (Carbon tetrachloride)  
 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)  
 Tetraethylthiopyrophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)  
 Tetraethyl lead (Plumbane, tetraethyl-)  
 Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)  
 Tetranitromethane (Methane, tetranitro-)  
 Thallium and compounds, N.O.S.\*  
 Thallous oxide (Thallium (III) oxide)  
 Thallium (I) acetate (Acetic acid, thallium (I) salt)  
 Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)  
 Thallium (I) chloride  
 Thallium (I) nitrate (Nitric acid, thallium (I) salt)  
 Thallium selenite  
 Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)  
 Thioacetamide (Ethanethioamide)  
 Thiosemicarbazide (Hydrazinecarbothioamide)  
 Thiourea (Carbamide thio-)  
 Thiuram (Bis(dimethylthiourcarbonyl) disulfide)  
 Toluene (Benzene, methyl-)  
 Toluenediamine (Diaminotoluene)  
 o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)  
 Toluene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)  
 Toxaphene (Camphene, octachloro-)  
 Tribromomethane (Bromoform)  
 1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)  
 1,1,1-Trichloroethane (Methyl chloroform)  
 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)  
 Trichloroethene (Trichloroethylene)  
 Trichloromethanethiol (Methanethiol, trichloro-)  
 Trichloromonofluoromethane (Methane, trichlorofluoro-)

2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)  
 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)  
 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)  
 (Acetic acid, 2,4,5-trichlorophenoxy-)  
 2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP) (Silvex) (Propionic acid, 2-(2,4,5-trichlorophenoxy)-)  
 Trichloropropane, N.O.S.\* (Propane, trichloro-, N.O.S.\*)  
 1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)  
 O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)  
 sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)  
 Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl)-)  
 Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)  
 Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)  
 Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)  
 Vanadic acid, ammonium salt (ammonium vanadate)  
 Vanadium pentoxide (Vanadium (V) oxide)  
 Vinyl chloride (Ethane, chloro-)  
 Zinc cyanide  
 Zinc phosphide

\*The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

[Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-9905, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-9905, filed 2/10/82.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

### Chapter 173-304 WAC MINIMUM FUNCTIONAL STANDARDS FOR SOLID WASTE HANDLING

WAC	
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173-304-490	Ground water monitoring requirements.
173-304-600	Permit requirements for solid waste facilities.
173-304-700	Variances.
173-304-9901	Maximum contaminant levels for ground water.

**WAC 173-304-010 Authority and purpose.** This regulation is promulgated under the authority of chapter 70.95 RCW to protect public health, to prevent land, air, and water pollution, and conserve the state's natural, economic, and energy resources by:

(1) Setting minimum functional performance standards for the proper handling of all solid waste materials originating from residences, commercial, agricultural and industrial operations and other sources;

(2) Identifying those functions necessary to assure effective solid waste handling programs at both the state and local level;

(3) Following the direction set by the legislature for the management of solid waste in order of descending priority as applicable:

- (a) Waste reduction;
- (b) Waste recycling;
- (c) Energy recovery or incineration;
- (d) Landfill.

(4) Describing the responsibility of persons, municipalities, regional agencies, state and local government under existing laws and regulations related to solid waste;

(5) Requiring use of the best available technology for siting, and all known available and reasonable methods for designing, constructing, operating and closing solid waste handling facilities; and

(6) Establishing these standards as minimum standards for solid waste handling to provide a state-wide consistency and expectation as to the level at which solid waste is managed throughout the state. Local ordinances setting standards for solid waste handling shall not be less stringent than these minimum standards, and shall be adopted not later than one year after the effective date of this regulation. Local ordinances need not adopt WAC 173-304-011, County planning requirements, but shall otherwise comply with the requirements of WAC 173-304-011. Solid waste regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department ninety days following adoption. [Statutory Authority: Chapter 43-.21A RCW, 85-22-013 (Order 85-18), § 173-304-010, filed 10/28/85.]

**WAC 173-304-011 County planning requirements.** The concept of "solid waste management" includes in addition to proper storage, collection, and disposal of discards, other management functions or operational activities including waste reduction, source separation, waste recycling, transportation, processing, treatment,

resource recovery, energy recovery, incineration, and landfilling. Under the State Solid Waste Management Act, chapter 70.95 RCW, primary responsibility for managing solid waste is assigned to local government (RCW 70.95.020). The state, however, is responsible for assuring that effective local programs are established throughout Washington state. Therefore, state and local solid waste planning for the aforementioned activities is an essential part of proper solid waste management.

(1) State responsibility. As described in RCW 70.95-.260, the department shall coordinate the development of a state solid waste management plan in cooperation with local government, the department of community development, and other appropriate state and regional agencies. The state plan shall be reviewed at two-year intervals, revised as necessary, and extended so that the plan shall look to the future for twenty years as a guide in carrying out a coordinated state solid waste management program.

(2) Local government responsibility. The overall purpose of local comprehensive solid waste planning is to determine the nature and extent of the various solid waste categories and to establish management concepts for their handling, utilization, and disposal consistent with the priorities established in RCW 70.95.010 for waste reduction, waste recycling, energy recovery and incineration, and landfill. Each local plan shall be prepared in accordance with RCW 70.95.080, 70.95.090, 70.95.100, and 70.95.110. Additionally, the department has available "Guidelines for the development of local or regional solid waste management plans and plan revisions" to be followed by local government. RCW 70.95-.165 also requires counties to establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-011, filed 10/28/85.]

**WAC 173-304-015 Applicability.** These regulations apply to solid wastes as that term is defined in WAC 173-304-100. These regulations shall not apply to the following solid wastes:

(1) Overburden from mining operations intended for return to the mine;

(2) Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution permits;

(3) Dangerous wastes as defined by chapter 70.105 RCW and chapter 173-303 WAC;

(4) Woodwaste used for ornamental, animal bedding, mulch and plant bedding, or roadbuilding purposes;

(5) Agricultural wastes, limited to manures and crop residues, returned to the soils at agronomic rates;

(6) Clean soils and clean dredge spoils as defined in WAC 173-304-100 or as otherwise regulated by section 404 of the Federal Clean Water Act (PL 95-217);

(7) Septage taken to a sewage treatment plant permitted under chapter 90.48 RCW;

(8) Radioactive wastes, defined by chapters 402-12 and 402-19 WAC; and

(9) Wood debris resulting from the harvesting of timber and whose disposal is permitted under chapter 76.04 RCW, the State Forest Practices Act. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-015, filed 10/28/85.]

**WAC 173-304-100 Definitions.** When used in this regulation, the following terms have the meanings given below.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Buffer zones shall not be considered part of the active area of a facility.

(2) "Agricultural wastes" means wastes on farms resulting from the production of agricultural products including but not limited to manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(3) "Agronomic rates" means the rates of application of sludges, manures, or crop residues in accordance with rates specified by the appropriate fertilizer guide for the crop under cultivation.

(4) "Air quality standard" means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(6) "Ashes" means the residue including any air pollution flue dusts from combustion or incineration of material including solid wastes.

(7) "Balefill" means a landfill which uses compacted bales of solid waste to form discrete lifts as the landfill is filled.

(8) "Buffer zone" means that part of a facility that lies between the active area and the property boundary.

(9) "Bulky waste" means large items of refuse, such as appliances, furniture, and other oversize wastes which would typically not fit into reusable or disposable containers.

(10) "Clean soils and clean dredge spoils" means soils and dredge spoils which are not dangerous wastes or problem wastes as defined in this section.

(11) "Closure" means those actions taken by the owner or operator of a solid waste site or facility to cease disposal operations and to ensure that all such facilities are closed in conformance with applicable regulations at the time of such closures and to prepare the site for the postclosure period.

(12) "Collecting agency" means any agency, business or service operated by a person for the collecting of solid waste.

(13) "Compliance schedule" means a written schedule of required measures in a permit including an enforceable sequence leading to compliance with these regulations.

(14) "Composting" means the controlled degradation of organic solid waste yielding a product for use as a soil conditioner.

(15) "Container" means a device used for the collection, storage, and/or transportation of solid waste including but not limited to reusable containers, disposable containers, detachable containers and tanks, fixed or detachable.

(16) "Contaminate" means to allow to discharge a substance into ground water that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level specified in WAC 173-304-9901, or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level specified in WAC 173-304-9901, or

(c) A statistically significant increase above background in the concentration of a substance which:

(i) Is not specified in WAC 173-304-9901, and

(ii) Is present in the solid waste, and

(iii) Has been determined to present a substantial risk to human health or the environment in the concentrations found at the point of compliance by the jurisdictional health department in consultation with the department and the department of social and health services.

(17) "Cover material" means soil or other suitable material that has been approved by the jurisdictional health department as cover for wastes.

(18) "Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC.

(19) "Demolition waste" means solid waste, largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (i.e., sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process and asbestos wastes are not considered to be demolition waste for the purposes of this regulation.

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

(21) "Detachable containers" means reusable containers that are mechanically loaded or handled such as a "dumpster" or drop box.

(22) "Disposable containers" means containers that are used once to handle solid waste such as plastic bags, cardboard boxes and paper bags.

(23) "Disposal" or "deposition" means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

(24) "Disposal site" means the location where any final treatment, utilization, processing, or deposition of solid waste occurs. See also the definition of interim solid waste handling site.

(25) "Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.

(26) "Energy recovery" means the recovery of energy in a useable form from mass burning or refuse derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

(27) "Existing facility" means a facility which is owned or leased, and in operation, or for which construction has begun, on or before the effective date of this regulation and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss for physical construction of the facility to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of this regulation shall be considered existing facilities.

(28) "Expanded facility" means a facility adjacent to an existing facility for which the land is purchased and approved by the jurisdictional health department after the effective date of this regulation. A vertical expansion approved and permitted by the jurisdictional health department after the effective date of this regulation shall also be considered an expanded facility.

(29) "Facility" means all contiguous land (including buffer zones) and structures, other appurtenances, and improvements on the land used for solid waste handling.

(30) "Facility structures" means buildings, sheds, utility lines, and drainage pipes on the facility.

(31) "Final treatment" means the act of processing or preparing solid waste for disposal, utilization, reclamation, or other approved method of use.

(32) "Free liquids" means any sludge which produces measurable liquids when the Paint Filter Liquids Test, Method 9095 of EPA Publication Number SW-846, is used.

(33) "One hundred year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source.

(34) "Garbage" means unwanted animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, swill and carcasses of dead animals, and of such a character and proportion as to be capable of attracting or providing food for vectors, except sewage and sewage sludge.



(35) "Ground water" means that part of the subsurface water which is in the zone of saturation.

(36) "Holocene fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side and that has occurred in the most recent epoch of the quaternary period extending from the end of the pleistocene to the present.

(37) "Incineration" means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

(38) "Interim solid waste handling site" means any interim treatment, utilization or processing site engaged in solid waste handling which is not the final site of disposal. Transfer stations, drop boxes, baling and compaction sites, source separation centers, and treatment are considered interim solid waste handling sites.

(39) "Industrial solid wastes" means waste by-products from manufacturing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC.

(40) "Inert wastes" means noncombustible, nondangerous solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack and chemical attack from acidic rainwater.

(41) "Jurisdictional health department" means city, county, city-county or district public health department.

(42) "Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

(43) "Landspreading disposal facility" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface at greater than vegetative utilization and soil conditioners/immobilization rates.

(44) "Leachate" means water or other liquid that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases therefrom.

(45) "Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

(46) "Lower explosive limits" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

(47) "Medical waste" means all the infectious, and injurious waste originating from a medical, veterinary, or intermediate care facility.

(48) "New facility" means a facility which begins operation or construction after the effective date of this regulation (see also definition of "existing facility").

(49) "Nonconforming site" means a solid waste handling facility which does not currently comply with the facility requirements of WAC 173-304-400 but does comply with a compliance schedule issued in a solid waste permit by the jurisdictional health department.

(50) "Nuisance" consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

(51) "Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(52) "Performance standard" means the criteria for the performance of solid waste handling facilities.

(53) "Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of  $1 \times 10^{-7}$  cm/sec or less may be considered impermeable.

(54) "Permit" means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

(55) "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life and during closure and postclosure.

(58) "Point of compliance" means that part of ground water that lies beneath the perimeter of a solid waste facilities' active area as that active area would exist at closure of the facility.

(59) "Postclosure" means the requirements placed upon disposal facilities after closure to ensure their environmental safety for a number of years after closure.

(60) "Premises" means a tract or parcel of land with or without habitable buildings.

(61) "Problem wastes" means: (a) Soils removed during the cleanup of a remedial action site, or a dangerous waste site closure or other cleanup efforts and actions and which contain harmful substances but are not designated dangerous wastes, or (b) dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and the dredge spoils are not dangerous wastes and are not regulated by section 404 of the Federal Clean Water Act (PL 95-217).

(62) "Processing" means an operation to convert a solid waste into a useful product or to prepare it for disposal.

(63) "Putrescible waste" means solid waste which contains material capable of being decomposed by micro-organisms.

(64) "Pyrolysis" means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

(65) "Reclamation site" means a location used for the processing or the storage of recycled waste.

(66) "Reusable containers" means containers that are used more than once to handle solid waste such as garbage cans.

(67) "Run-off" means any rainwater, leachate or other liquid which drains over land from any part of the facility.

(68) "Run-on" means any rainwater or other liquid which drains over land onto any part of a facility.

(69) "Scavenging" means the removal of materials at a disposal site, or interim solid waste handling site without the approval of the owner or operator and the jurisdictional health department.

(70) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(71) "Sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment plant or other source.

(72) "Sole source aquifer" means an aquifer designated by the Environmental Protection Agency pursuant to Section 1424e of the Safe Drinking Water Act (PL 93-523).

(73) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.

(74) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.

(75) "Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

(76) "Storage" means the holding of solid waste materials for a temporary period.

(77) "Twenty-five year storm" means a storm of a particular duration and of such an intensity that it has a four percent probability of being equalled or exceeded each year.

(78) "Twenty-four hour, twenty-five year storm" means a twenty-five year storm of twenty-four hours duration.

(79) "Stream" means the point at which any confined freshwater body of surface water reaches a mean annual flow of twenty cubic feet per second.

(80) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(81) "Surface water" means all lakes, rivers, ponds, streams, inland waters, salt waters and all other water and water courses within the jurisdiction of the state of Washington.

(82) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling facility. Transfer stations may also include recycling facilities.

(83) "Treatment" means the physical, chemical or biological processing of solid waste to make such solid wastes safer for storage or disposal, amenable for energy or material resource recovery or reduced in volume.

(84) "Utilization" means consuming, expending, or exhausting by use, solid waste materials.

(85) "Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

(86) "Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

(87) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.

(88) "Waste reduction" means reducing the amount or type of waste generated.

(89) "Water quality standard" means a standard set for maximum allowable contamination in surface waters as set forth in chapter 173-201 WAC, Water quality standards for waters of the state of Washington.

(90) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, estuaries, and similar areas.

(91) "Woodwaste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes but is not limited to sawdust, chips, shavings, bark, pulp, hog fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

(92) "Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

(93) "Buy-back recycling center" means any facility which collects, receives, or buys recyclable materials from household, commercial, or industrial sources for the purpose of accumulating, grading, or packaging recyclable materials for subsequent shipment and reuse, other than direct application to land.

(94) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with such industrial waste as may be present.

(95) "Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

(96) "Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

(97) "Reserved" means a section having no requirements and which is set aside for future possible rule-making as a note to the regulated community.

(98) "Limited purpose landfills" means a landfill that receives solid waste of limited types, known and consistent composition, other than woodwastes, garbage, inert waste, and demolition waste. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-100, filed 10/28/85.]

**WAC 173-304-130 Locational standards for disposal sites.** (1) Applicability. These standards apply to all new and expanded disposal sites including landfills, landspreading disposal sites, and piles and surface impoundments that are to be closed as landfills. These standards do not apply to:

(a) Existing facilities or facilities that have engaged in closure and closed before the effective date of this regulation;

(b) Interim solid waste handling sites;

(c) Energy recovery and incineration sites;

(d) Piles and surface impoundments used for storage, unless otherwise referred to in WAC 173-304-400, Solid waste handling facility standards;

(e) Utilization of sludge and other waste on land;

(f) Inert wastes and demolition wastes as defined in WAC 173-304-100 unless otherwise referred to in WAC 173-304-400, Solid waste handling facility standards; and

(g) Problem wastes, as defined in WAC 173-304-100.

(2) Locational standards. All applicable solid waste facilities shall be subject to the following locational standards:

(a) Geology. No facility shall be located over a holocene fault, in subsidence areas, or on or adjacent to geologic features which could compromise the structural integrity of the facility.

(b) Ground water.

(i) No facility shall be located at a site where the bottom of the lowest liner is any less than ten feet above

the seasonal high level of ground water in the uppermost aquifer, or five feet when a hydraulic gradient control system or the equivalent has been installed to control ground water fluctuations;

(ii) No landfill shall be located over a sole source aquifer; and

(iii) No facility's active area shall be located closer than one thousand feet to a down-gradient drinking water supply well, in use and existing at the time of the county's adoption of the comprehensive solid waste management plan unless the owner or operator can show that the active area is no less than ninety days travel time hydraulically to the nearest down-gradient drinking water supply well in the uppermost useable aquifer.

(c) Natural soils. See WAC 173-304-400, such as WAC 173-304-460 (3)(c)(i), landfill liners;

(d) Flooding. See WAC 173-304-400 such as WAC 173-304-460 (3)(d), landfill, floodplains;

(e) Surface water. No facility's active area shall be located within two hundred feet measured horizontally, of a stream, lake, pond, river, or salt water body, nor in any wetland nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4);

(f) Slope. No facility's active area shall be located on any hill whose slope is unstable;

(g) Cover material. See WAC 173-304-400, such as WAC 173-304-460 (3)(e), landfills, closure;

(h) Capacity. See WAC 173-304-400, such as WAC 173-304-460, Landfilling standards, (for standards that vary according to capacity);

(i) Climatic factors. See WAC 173-304-400 such as WAC 173-304-460(3) landfill standards, (for standards applicable to arid climates);

(j) Land use. No facility shall be located:

(i) Within ten thousand feet of any airport runway currently used by turbojet aircraft or five thousand feet of any airport runway currently used by only piston-type aircraft unless a waiver is granted by the federal aviation administration. This requirement is only applicable where such facility is used for disposing of garbage such that a bird hazard to aircraft would be created;

(ii) In areas designated by the United States Fish and Wildlife Service or the department of game as critical habitat for endangered or threatened species of plants, fish, or wildlife;

(iii) So that the active area is any closer than one hundred feet to the facility property line for land zoned as nonresidential, except that the active area may be no closer than two hundred and fifty feet to the property line of adjacent land zoned as residential existing at the time of the county's adoption of the comprehensive solid waste management plan;

(iv) So as to be at variance with any locally-adopted land use plan or zoning requirement unless otherwise provided by local law or ordinance; and

(v) So that the active area is any closer than one thousand feet to any state or national park.

(k) Toxic air emissions. See WAC 173-304-400 such as WAC 173-304-460 (2)(b), landfill performance

standards. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-130, filed 10/28/85.]

**WAC 173-304-190 Owner responsibilities for solid waste.** The owner, operator, or occupant of any premise, business establishment, or industry shall be responsible for the satisfactory and legal arrangement for the solid waste handling of all solid waste accumulated by them on the property. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-190, filed 10/28/85.]

**WAC 173-304-195 Permit required.** After approval by the department of the comprehensive solid waste plan required by RCW 70.95.100, no solid waste disposal site or facility shall be maintained, established, substantially altered, expanded or improved until the county, city or other person operating or owning such site has obtained a permit from the jurisdictional health department pursuant to the provisions of WAC 173-304-600. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-195, filed 10/28/85.]

**WAC 173-304-200 On-site containerized storage, collection and transportation standards for solid waste.**

(1) Applicability. These standards apply to all persons storing containerized solid waste generated on-site, and to all persons who are engaged in the collection and transportation of solid waste of more than one single family residence or single family farm including collection and transportation of septage and septic tank pumpings.

(2) On-site storage standards.

(a) The owner or occupant of any premises, business establishment, or industry shall be responsible for the safe and sanitary storage of all containerized solid wastes accumulated at that premises.

(b) The owner, operator, or occupant of any premises, business establishment, or industry shall store containerized solid wastes in containers that meet the following requirements:

(i) Disposable containers shall be sufficiently strong to allow lifting without breakage and shall be thirty-two gallons in capacity or less where manual handling is practiced;

(ii) Reusable containers, except for detachable containers, shall be:

(A) Rigid and durable;

(B) Corrosion resistant;

(C) Nonabsorbent and water tight;

(D) Rodent-proof and easily cleanable;

(E) Equipped with a close fitting cover;

(F) Suitable for handling with no sharp edges or other hazardous conditions; and

(G) Equal to or less than thirty-two gallons in volume where manual handling is practiced.

(iii) Detachable containers shall be durable, corrosion-resistant, nonabsorbent, nonleaking and having either a solid cover or screen cover to prevent littering.

(3) Collection and transportation standards.

(a) All persons collecting or transporting solid waste shall avoid littering, or the creation of other nuisances at the loading point, during transport and for the proper unloading of the solid waste at a permitted transfer station, or other permitted solid waste handling site.

(b) Vehicles or containers used for the collection and transportation of solid waste shall be tightly covered or screened where littering may occur, durable and of easily cleanable construction. Where garbage is being collected or transported, containers shall be cleaned as necessary to prevent nuisances, odors and insect breeding and shall be maintained in good repair.

(c) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such manner that the contents will not fall, leak in quantities to cause a nuisance, or spill therefrom. Where such spillage or leakage does occur, the waste shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area otherwise properly cleaned.

(d) All persons commercially collecting or transporting solid waste shall inspect collection and transportation vehicles monthly, for repairs to containers such as missing or loose-fitting covers or screens, leaking containers, etc., and maintain such inspection records at the facility normally used to park such vehicles or such other location that maintenance records are kept. Such records shall be kept for a period of at least two years, and be made available upon the request of the jurisdictional health department. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-200, filed 10/28/85.]

**WAC 173-304-300 Waste recycling facility standards.** (1) Applicability.

(a) These standards apply to facilities engaged in recycling or utilization of solid waste on the land, including but not limited to:

(i) Noncontainerized composting in piles;

(ii) Utilization of sewage sludge, septage and other organic wastes on land for beneficial use;

(iii) Accumulation of wastes in piles for recycling or utilization.

(b) These standards do not apply to:

(i) Single family residences and single family farms engaged in composting of their own wastes;

(ii) Facilities engaged in the recycling of solid waste containing garbage, such as garbage composting, which are subject to WAC 173-304-400, Solid waste handling facility standards;

(iii) Facilities engaged in the storage of tires which are subject to WAC 173-304-400, Solid waste handling facility standards;

(iv) Problem wastes as defined in WAC 173-304-100;

(v) Facilities engaged in recycling of solid waste stored in surface impoundments which are subject to WAC 173-304-400, Solid waste handling facility standards; and

(vi) Woodwaste or hog fuel piles to be used as fuel or raw materials stored temporarily in piles being actively

used so long as the criteria of WAC 173-304-300 (3)(c)(i) are met.

(c) These standards do not apply to any facility that recycles or utilizes solid wastes in containers, tanks, vessels, or in any enclosed building, including buy-back recycling centers.

(2) Effective dates. All existing facilities recycling solid waste not in conformance with this section shall be placed upon a compliance schedule under WAC 173-304-600(1) to assure compliance within two years of the effective date of this regulation.

(3) Waste recycling requirements.

(a) All applicable solid waste recycling facilities shall apply for and obtain a solid waste permit under WAC 173-304-600, permits.

(b) Applicable waste recycling facilities shall submit annual reports to the jurisdictional health department and the department by March 1 of the following year for which the data is collected on forms supplied by the department. The annual reports shall include quantities and types of waste recycled for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4). Such facilities may request and be assured of confidentiality for their reports in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(c) All facilities storing solid waste in outdoor piles or surface impoundments for the purpose of waste recycling shall be considered to be storing or disposing of solid waste if:

(i) At least fifty percent of the material has not been shown to have been recycled in the past three years and any material has been on-site more than five years; or

(ii) Ground water or surface water, air, and/or land contamination has occurred or will likely occur under current conditions of storage or in case of fire, or flood.

Upon such a determination by the jurisdictional health department that (c)(i) or (ii) of this subsection are met, the jurisdictional health department may require a permit application and issuance of a permit under WAC 173-304-600 of these rules.

(d) Waste recycling facilities shall allow jurisdictional health department and department representatives entry for inspection purposes and to determine compliance with these rules at reasonable times.

(e) All applicable waste recycling facilities shall not conflict with the county comprehensive solid waste management plan required by WAC 173-304-011 of these rules.

(f) All waste recycling facilities shall comply with applicable local, state and federal laws and regulations, including but not limited to environmental regulations and laws.

(4) Sewage sludge utilization requirements.

In addition to the requirements of subsection (3) of this section, all facilities utilizing sewage sludge, including septage shall comply with the department's *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11, dated September 1982 or as hereafter amended. Facilities utilizing sewage sludge on the land in a manner not consistent with nor meeting the requirement of

the guidelines are required to meet the landspreading disposal standards of WAC 173-304-450.

(5) Woodwaste and other organic sludge utilization requirements.

(a) Facilities utilizing woodwaste not otherwise excluded under WAC 173-304-015, shall comply with these recycling standards. Applying woodwaste and other primarily organic sludges such as pulp and paper mill treatment sludges to the land shall be in a manner consistent with the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11 dated September 1982 or as hereafter amended. Only agricultural or silvicultural sites where such sludges are demonstrated to have soil conditioning or fertilizer value shall be acceptable, provided that the woodwaste and other primarily organic sludges are applied as a soil conditioner or fertilizer in accordance with accepted agricultural and silvicultural practice. Facilities utilizing woodwaste or other primarily organic sludges on the land in a manner not consistent with nor meeting the requirement of the guidelines are required to meet the landspreading disposal standards of WAC 173-304-450.

(b) Facilities utilizing woodwaste or other primarily organic sludges shall also comply with the standards of subsection (3) of this section. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-300, filed 10/28/85.]

**WAC 173-304-400 Solid waste handling facility standards.** (1) Applicability. The standards of WAC 173-304-405 through 173-304-490 are the solid waste handling facility standards and apply to all solid waste handling facilities, except for:

(a) Waste recycling facilities, whose standards are spelled out in WAC 173-304-300;

(b) On-site containerized storage, collection and transportation facilities which are spelled out in WAC 173-304-200;

(c) Single family residences and single family farms whose year round occupants engage in solid waste handling of the single family's solid waste on-site;

(d) Problem wastes as defined in WAC 173-304-100;

(e) Solid waste handling facilities that have engaged in closure and closed before the effective date of this regulation; and

(f) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits except for any portion that utilizes or engages in landspreading disposal sludges or solid residues directly on the land.

(2) Standards for permits. The standards of WAC 173-304-405 through 173-304-490 shall be used as the basis for permitting as required in WAC 173-304-600.

(3) Effective dates.

(a) All existing facilities not in conformance with the following sections of the facility standards shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within eighteen months of the effective date of this regulation for:

(i) The general facility standards, WAC 173-304-405;

(ii) The transfer stations, baling and compaction standards, WAC 173-304-410;

(iii) Ground water monitoring required in WAC 173-304-490;

(iv) The landfill operating and maintenance standards, WAC 173-304-460(4);

(v) The tire pile standards of WAC 173-304-420(4); and

(vi) The landspreading disposal standards of WAC 173-304-450(5).

(b) All existing solid waste facilities not in conformance with facility standards other than those in (a) of this subsection shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within four years of the effective date of this regulation.

(c) All new and expanded facilities shall meet the facility standards of WAC 173-304-405 to 173-304-490 after the effective date of this regulation. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-400, filed 10/28/85.]

#### **WAC 173-304-405 General facility requirements.**

(1) Applicability. All applicable solid waste handling facilities shall meet the requirements of this section.

(2) Plan of operation. Each owner or operator shall develop, keep and abide by a plan of operation approved as part of the permitting process in WAC 173-304-600. The plan shall describe the facilities' operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health officer. The facility must be operated in accordance with the plan or the plan must be so modified with the approval of the jurisdictional health department. Owners or operators of drop boxes may develop a generic plan of operation applicable to all such drop boxes, owned or operated.

Each plan of operation shall include:

(a) How solid wastes are to be handled on-site during its active life;

(b) How the facility will be closed and, for land disposal facilities, how postclosure will be carried out;

(c) How inspections and monitoring are conducted and their frequency;

(d) Actions to take if there is a fire or explosion;

(e) Actions to take if leaks are detected;

(f) Corrective action programs to take if ground water is contaminated;

(g) Actions to take for other releases (e.g. failure of run-off containment system);

(h) How equipment such as leachate collection and gas collection equipment are to be maintained;

(i) A safety plan or procedure; and

(j) Other such details as required by the jurisdictional health department.

(3) Recordkeeping. Each owner or operator shall maintain daily operating records on the weights (or volumes), number of vehicles entering and, if available, the types of wastes received. Major deviations from the plan of operation shall also be noted on the operating record.

(4) Reporting. Each owner or operator shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by March 1 of each year. The annual report shall cover facility activities during the previous year and must include the following information:

(a) Name and address of the facility;

(b) Calendar year covered by the report;

(c) Annual quantity, in tons, or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled, by type of solid waste if available, for each type of treatment, storage, or disposal facility, including applicable recycling facilities; and

(d) Results of ground water monitoring required in WAC 173-304-490.

(5) Inspections. The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors and discharges which may cause or lead to the release of wastes to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and the handwritten signature of the inspector, a notation of observations made and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the jurisdictional health department upon request.

(6) Closure. Each owner or operator shall close the facility according to plans spelled out in the plan of operation. Solid waste facilities shall be restored by the owner or operator to be as compatible as possible with the surrounding environs following the closure. Closure includes but is not limited to grading, seeding, landscaping, contouring, and screening. For interim solid waste handling sites, closure includes waste removal and decontamination. For disposal facilities, postclosure includes ground water monitoring and gas monitoring, the maintenance of the site for its intended use, and other activities deemed appropriate by the jurisdictional health department until the site becomes stabilized (i.e. little or no settlement, gas production or leachate generation) and monitoring ground water and gases can be safely discontinued.

(7) Recording with county auditor. Maps and a statement of fact concerning the location of the disposal site shall be recorded as part of the deed with the county auditor not later than three months after closure. Records and plans specifying solid waste amounts, location and periods of operation shall be submitted to the local zoning authority or the authority with jurisdiction over land use and be made available for inspection.

(8) State and local requirements. All solid waste disposal facilities shall comply with all state and local requirements such as zoning land use, fire protection,

water pollution prevention, air pollution prevention, nuisance and aesthetics. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-405, filed 10/28/85.]

**WAC 173-304-410 Transfer stations, baling and compaction systems, and drop box facilities.** (1) Applicability. All transfer stations, baling and compaction systems and drop boxes receiving solid waste from off-site shall meet the requirements of this section. Facilities receiving solid waste from on-site shall meet the requirements of WAC 173-304-200.

(2) Transfer stations, baling and compacting systems standards. Transfer stations, baling and compaction systems shall be designed, constructed, and operated so as to:

(a) Be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building;

(b) Be sturdy and constructed of easily cleanable materials;

(c) Be free of potential rat harborages, and provide effective means to control rodents, insects, birds and other vermin;

(d) Be adequately screened to prevent blowing of litter and to provide effective means to control litter;

(e) Provide protection of the tipping floor from wind, rain or snow other than below grade bins or detachable containers;

(f) Have an adequate buffer zone around the operating area to minimize noise and dust nuisances, and for transfer stations, baling, or compaction systems, a buffer zone of fifty feet from the active area to the nearest property line in areas zoned residential;

(g) Comply with local zoning and building codes including approved local variances and waivers;

(h) Provide pollution control measures to protect surface and ground waters, including run-off collection and discharge designed and operated to handle a twenty-four hour, twenty-five year storm and equipment cleaning and washdown water;

(i) Provide all-weather approach roads, exit roads, and all other vehicular areas;

(j) Provide pollution control measures to protect air quality including a prohibition against all burning and the development of odor and dust control plans to be made a part of the plan of operation in WAC 173-304-405(2);

(k) Prohibit scavenging;

(l) Provide attendant(s) on-site during hours of operation;

(m) Have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours during which the site is open for public use, what constitutes materials not to be accepted and other necessary information posted at the site entrance;

(n) Have communication capabilities to immediately summon fire, police, or emergency service personnel in the event of an emergency; and

(o) Remove all wastes at closure, as defined in WAC 173-304-100, from the facility to a permitted facility.

(3) Drop box facility standards. Drop box facilities, as defined in WAC 173-304-100, shall:

(a) Be constructed of durable water tight materials with a lid or screen on top that prevents the loss of materials during transport and access by rats and other vermin;

(b) Be located in an easily identifiable place accessible by all-weather roads;

(c) Be designed and serviced as often as necessary to ensure adequate dumping capacity at all times. Storage of solid waste outside the drop boxes is prohibited;

(d) Comply with subsection (2)(m) of this section, signs; and

(e) Remove all remaining wastes at closure, as defined in WAC 173-304-100, to a permitted facility, and remove the drop box from the facility. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-410, filed 10/28/85.]

**WAC 173-304-420 Piles used for storage and treatment—Facility standards.** (1) Applicability.

(a) This section is applicable to solid wastes stored or treated in piles as defined in WAC 173-304-100 where putrescible wastes (other than garbage) are in place for more than three weeks, other wastes not intended for recycling are in place for more than three months, and garbage is in place for more than three days. These standards are also applicable to composting or storing of garbage and sludge in piles, and to tire piles where more than eight hundred tires are stored at one facility.

(b) Other solid wastes stored or treated in piles prior to waste recycling including compost piles of vegetative waste, piles of woodwaste used for fuel or raw materials are subject to WAC 173-304-300.

(c) Waste piles stored in fully enclosed buildings are not subject to these standards, provided that no liquids or sludges with free liquids are added to the pile.

(d) Inert wastes and demolition wastes are not subject to these standards.

(2) Requirements. All owners and operators shall:

(a) Comply with the requirements of the General facility requirements, WAC 173-304-405;

(b) Design piles located in a one hundred year flood plain to:

(i) Comply with local flood plain management ordinances and chapter 508-60 WAC, Administration of flood control zones; and

(ii) To avoid washout or restriction of flow; and

(c) Remove all solid wastes from the pile at closure to another permitted facility.

(3) Requirements for putrescible wastes or wastes likely to produce leachate.

(a) Waste piles shall be placed upon a surface such as sealed concrete, asphalt, clay or an artificial liner underlying the pile, to prevent subsurface soil and potential ground water contamination and to allow collection of run-off and leachate. The liner shall be designed of sufficient thickness and strength to withstand stresses imposed by pile handling vehicles and the pile itself;

(b) Run-off systems shall be installed, designed and maintained to handle a twenty-four hour, twenty-five year storm event;

(c) Waste piles having a capacity of greater than ten thousand cubic yards shall have either:

(i) A ground water monitoring system that complies with WAC 173-304-490; or

(ii) A leachate detection, collection and treatment system.

For purposes of this subsection, capacity refers to the total capacity of all putrescible or leachate-generating piles at one facility (i.e., two, five thousand cubic yard piles will subject the facility to the requirements of this subsection).

(d) Run-on prevention systems shall be designed and maintained to handle the maximum flow from a twenty-five year storm event; and

(e) A jurisdictional health department may require that the entire base or liner shall be inspected for wear and integrity and repaired or replaced by removing stored wastes or otherwise providing inspection access to the base or liner; the request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading the jurisdictional health department to request such an inspection, repair or replacement.

(4) Requirements for tire piles. Owners or operators shall:

(a) Control access to the tire pile by fencing;

(b) Limit the tire pile to a maximum of one-half acre in size;

(c) Limit the height of the tire pile to twenty feet;

(d) Provide for a thirty foot fire lane between tire piles; and

(e) Provide on-site fire control equipment. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-420, filed 10/28/85.]

**WAC 173-304-430 Surface impoundment standards. (1) Applicability.**

(a) These standards are applicable to solid wastes that are liquids or sludges containing free liquids as defined in WAC 173-304-100 and applicable under WAC 173-304-015(2) and are stored or treated in surface impoundments;

(b) These standards are also applicable to sludges and septage stored or treated in surface impoundments; and

(c) These standards are not applicable to:

(i) Surface impoundments whose facilities and discharges are otherwise regulated under federal, state, or local water pollution permits; and

(ii) Retention or detention basins used to collect and store stormwater runoff.

(2) Requirements. All surface impoundments must be designed, constructed, and operated so as to:

(a) Meet the performance standards of WAC 173-304-460(2);

(b) Have an inplace or imported soil liner of at least two feet of  $1 \times 10^{-7}$  cm/sec permeability or an equivalent combination of any thickness greater than two feet and a greater permeability to protect the underlying

aquifers or a thirty mil reinforced artificial liner placed on top of a structurally stable foundation to support the liners and solid waste and to prevent settlement that would destroy the liner; natural soils shall be recomacted to achieve an equivalent permeability. Owners or operators shall be allowed to use alternative designs, operating practices and locational characteristics which prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(c) Avoid washout including the use of an extended liner or dikes or restriction of flow in the one hundred year floodplain and to comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones;

(d) Have dikes designed with slopes so as to maintain the structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action;

(e) Have the freeboard equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation;

(f) Have either a ground water monitoring system, or a leachate detection, collection and treatment system, for surface impoundments having a capacity of more than two million gallons unless the jurisdictional health department and the department require either for smaller surface impoundments. For purposes of this subsection, capacity refers to the total capacity of all surface impoundments on-site (i.e., two, one million gallon surface impoundments on one site will trigger these monitoring requirements);

(g) Be closed in a manner which removes all solid wastes including liners, etc. to another permitted facility and the site returned to its original or acceptable topography except that surface impoundments closed with the waste remaining in place shall meet the requirements of WAC 173-304-460(5) and 173-304-130;

(h) A jurisdictional health department may require that the liner be inspected for wear and integrity and repaired or replaced by removing stored solid wastes or otherwise inspecting the liner or base at any time. The request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading to such an inspection and repair;

(i) Surface impoundments containing septage will also be subject to the department's "criteria for sewage works design" used to review plans for septage surface impoundments; and

(j) Surface impoundments that have the potential to impound more than ten acre-feet of waste measured from the top of the dike and which would be released by a failure of the containment dike shall be reviewed and approved by the dam safety section of the department. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-430, filed 10/28/85.]

**WAC 173-304-440 Energy recovery and incinerator standards. (1) Applicability.** These standards apply to all facilities designed to burn more than twelve tons of solid



waste per day, except for facilities burning woodwaste or gases recovered at a landfill.

(2) Requirements for energy recovery facilities and incinerators.

(a) Incinerators and energy recovery facilities storing putrescible wastes shall be confined to storage compartments specifically designed to store wastes temporarily in piles, surface impoundments, tanks or containers. The storage facilities shall meet the facility standards of WAC 173-304-400. Storage of wastes other than in the specifically designed storage compartments is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required in order to maintain the plant in a sanitary and clean condition;

(b) All residues from energy recovery facilities or incinerator facilities shall be used, handled or disposed of as solid or dangerous wastes according to these standards or the standards of the dangerous waste regulation, chapter 173-303 WAC;

(c) Each owner or operator of an energy recovery facility or incinerator facility shall comply with WAC 173-304-405. The plan of operation shall address alternative storage, and/or disposal plans for all breakdowns that would result in overfilling of the storage facility;

(d) Energy recovery facilities and incinerators must be designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements;

(e) Each owner or operator shall close their energy recovery facility or incinerator by removing all ash, solid wastes and other residues to a permitted facility;

(f) Each owner or operator of an energy recovery facility or incinerator shall be required to provide recycling facilities in a manner equivalent to WAC 173-304-460 (4)(f); and

(g) Owners or operators of energy recovery facilities or incinerators shall not knowingly dispose of, treat, store or otherwise handle dangerous waste unless the requirements of chapter 173-303 WAC are met. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-440, filed 10/28/85.]

**WAC 173-304-450 Landspreading disposal standards.** (1) Applicability. These standards apply to facilities that engage in landspreading disposal of solid wastes. These standards do not apply to:

(a) Facilities utilizing sludge, woodwaste or other primarily organic sludges according to the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11, specified in WAC 173-304-300 (4) and (5);

(b) Agricultural solid wastes resulting from the operation of a farm including farm animal manure and agricultural residues; and

(c) Inert wastes and demolition wastes.

(2) Owners or operators of landspreading disposal facilities shall meet the minimum functional standards for performance of WAC 173-304-460(2) and the general facilities standards of WAC 173-304-405.

(3) Owners or operators of landspreading disposal facilities shall meet the locational standards of WAC 173-304-130.

(4) Minimum functional standard for design. Owners or operators of landspreading disposal facilities shall design landspreading facilities so as to:

(a) Provide interim waste storage facilities that meet the requirements of WAC 173-304-400 standards (i.e., for piles, surface impoundments, etc.);

(b) Collect and treat all run-off from a twenty-four hour, twenty-five year storm, and divert all run-on for the maximum flow of a maximum twenty-five year storm around the active area;

(c) Avoid standing water anywhere on the active area;

(d) Avoid slopes and other features that will lead to soil and waste erosion, unless contour plowing or other measures are taken to avoid erosion;

(e) Monitor ground water according to WAC 173-304-490; and

(f) Control access to site by fencing or other means and erect signs.

(5) Minimum functional standards for maintenance and operation. Owners or operators of landspreading disposal facilities shall maintain and operate the facilities so as to:

(a) Avoid any landspreading disposal of garbage or medical waste;

(b) Analyze solid wastes according to the requirements spelled out in the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11;

(c) Avoid applying wastes at rates greater than ten times agronomic rates using the proposed cover crop, or depths greater than would allow for discing the soil by tracked vehicles;

(d) Provide discing of soils during the growing season and after each application of waste to maintain aerobic soil conditions, minimize odors and lessen run-off;

(e) Avoid applying waste to any active area having standing water;

(f) Conform to the operating plan and the requirements of WAC 173-304-405;

(g) Avoid food chain crops during the active life of the facility and until demonstrated to be safe, after closure, according to the closure and postclosure plans filed with the plan of operation. Specific approval in writing from the jurisdictional health department is required for any landspreading disposal facility that is used to raise food crops after closure. Any new owner or operator of a closed landspreading disposal facility shall notify the jurisdictional health department within sixty days of the purchase; and

(h) Provide for a written contract between landowners, waste generators, waste haulers and waste operators requiring compliance with rules as a condition of the contract.

(6) Minimum functional standards for closure.

(a) All owners or operators of landspreading disposal facilities shall close in such a manner as to comply with WAC 173-304-405(6);

(b) All owners or operators of landspreading facilities shall also close such facilities in a manner that:

- (i) Minimizes the need for further maintenance;
  - (ii) Controls, minimizes or eliminates, to the extent necessary, threats to human health and the environment, postclosure escape of solid waste, constituents, leachate, contaminated rainfall or waste decomposition products to the ground, surface water, ground water or the atmosphere;
  - (iii) Returns the land to the appearance and use of surrounding land areas to the degree possible; and
  - (iv) Allows for continued monitoring of all media (air, land and water) as long as necessary to protect human health and the environment during the postclosure period;
- (c) Financial assurance. All owners or operators of landspreading disposal facilities shall have a written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate must equal the cost of closure at the point in the operating life of the facility when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan.

In addition, all facilities shall have a written postclosure estimate, in current dollars, the cost of postclosure monitoring and maintenance during the postclosure period. [Statutory Authority: Chapter 43-21A RCW. 85-22-013 (Order 85-18), § 173-304-450, filed 10/28/85.]

**WAC 173-304-460 Landfilling standards.** (1) Applicability. These standards apply to facilities that dispose of solid waste in landfills except for:

- (a) Inert wastes and demolition wastes landfills, that must meet WAC 173-304-461 standards; and
- (b) Woodwaste landfills that must meet WAC 173-304-462 standards.

(2) Minimum functional standards for performance.

(a) Ground water. An owner or operator of a landfill shall not contaminate the ground water underlying the landfill, beyond the point of compliance. Contamination and point of compliance are defined in WAC 173-304-100.

(b) Air quality and toxic air emissions.

(i) An owner or operator of a landfill shall not allow explosive gases generated by the facility whose concentration exceeds:

(A) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components);

(B) The lower explosive limit for the gases at the property boundary or beyond; and

(C) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

(ii) An owner or operator of a landfill shall not cause a violation of any ambient air quality standard at the property boundary or emission standard from any emission of landfill gases, combustion or any other emission associated with a landfill.

(c) Surface waters. An owner or operator of a landfill shall not cause a violation of any receiving water quality standard or violate chapter 90.48 RCW from discharges

of surface run-off, leachate or any other liquid associated with a landfill.

(3) Minimum functional standards for design.

(a) Minimizing liquids. All owners or operators of landfills shall minimize liquids admitted to active areas of landfills by:

(i) Covering according to WAC 173-304-460 (4)(d);

(ii) Prohibiting the disposal of noncontainerized liquids or sludges containing free liquids in landfills unless approved by the jurisdictional health department;

(iii) Designing the landfill to prevent all the run-on of surface waters and other liquids resulting from a maximum flow of a twenty-five year storm into the active area of the landfill;

(iv) Designing the landfill to collect the run-off of surface waters and other liquids resulting from a twenty-four hour, twenty-five year storm from the active area and the closed portions of a landfill;

(b) Leachate systems. All owners or operators of landfills shall:

(i) Install a leachate collection system sized according to water balance calculations or using other accepted engineering methods either of which shall be approved by the jurisdictional health department;

(ii) Install a leachate collection system so as to prevent no more than two feet of leachate developing at the topographical low point of the active area; and

(iii) Install a leachate treatment, or a pretreatment system if necessary in the case of discharge to a municipal waste water treatment plant, to meet the requirements for permitted discharge under chapter 90.48 RCW and the Federal Clean Water Act (PL 95-217).

(c) Liner designs. All owners or operators of landfills shall use liners of one of the following designs:

(i) Standard design. The liner shall be constructed of at least a four feet thick layer of recompacted clay or other material with a permeability of no more than  $1 \times 10^{-7}$  cm/sec and sloped no less than two percent; or

(ii) Alternative design. The design shall have two liners:

(A) An upper liner of at least fifty mils thickness made of synthetic material; and

(B) A lower liner of at least two feet thickness of recompacted clay or other material with a permeability of no more than  $1 \times 10^{-6}$  cm/sec and sloped no less than two percent; or

(iii) Equivalent design. The design shall use alternative methods, operating practices and locational characteristics which will minimize the migration of solid waste constituents or leachate into the ground or surface water at least as effectively as the liners of (c)(i) and (ii) of this subsection; or

(iv) Arid design. This design will apply to locations having less than twelve inches of precipitation annually, and, in lieu of (c)(i), (ii), and (iii) of this subsection, shall consist of vadose zone moisture monitoring, provided that:

(A) Waste material is no less than ten feet above the seasonal high level of ground water in the uppermost aquifer; and

(B) Any evidence of leachate or waste constituents detected in the vadose zone that violates or could be expected to violate the performance standard of WAC 173-304-460(2) shall cause the owner or operator to:

- (I) Take corrective action, and either
  - (II) Close the facility according to these rules, or
  - (III) For all future expansions at that facility, meet the liner requirement of (c)(i) or (ii) of this subsection.
- (v) Small landfill designs. For a landfill whose design and permit allow a total capacity at closure of two hundred thousand cubic yards or less, the need for a liner and leachate collection system shall be determined on a case-by-case basis by the jurisdictional health department in consultation with the department.

(d) Floodplains. All owners or operators of landfills that are located in a one hundred year floodplain shall:

- (i) Comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones; and
- (ii) Design the landfill so that the landfill entrance or exit roads or practices shall not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain or result in washout of solid waste, so as to pose a hazard to human life, wildlife, land or water resources.

(e) Closure. All owners and operators shall design landfills so that at closure:

- (i) At least two feet of  $1 \times 10^{-6}$  cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts unless the landfill is located in an area having mean annual precipitation of less than twelve inches in which case at least two feet of  $1 \times 10^{-5}$  cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts. Artificial liners may replace soil covers provided that a minimum of fifty mils thickness is used;
- (ii) The grade of surface slopes shall not be less than two percent, nor the grade of side slopes more than thirty-three percent; and
- (iii) Final cover of at least six inches of topsoil be placed over the soil cover and seeded with grass, other shallow rooted vegetation or other native vegetation.

(f) Gas control.

(i) All owners and operators shall design landfills, having a permitted capacity of greater than ten thousand cubic yards per year, so that methane and other gases are continuously collected, and

- (A) Purified for sale;
- (B) Flared; or
- (C) Utilized for its energy value.

(ii) Collection and handling of landfill gases shall not be required if it can be shown that little or no landfill gases will be produced or that landfill gases will not support combustion; in such cases installation of vents shall be required.

(g) Other requirements. All owners and operators of landfills shall design landfills to:

(i) Be fenced at the property boundary or use other means to impede entry by the public and animals. A lockable gate shall be required at the entry to the landfill;

(ii) Monitor ground water according to WAC 173-304-490 using a design approved by the local jurisdictional health department with the guidance of the department. The jurisdictional health department may also require monitoring of:

- (A) Surface waters, including run-off;
- (B) Leachate;
- (C) Subsurface landfill gas movement and ambient air; and
- (D) Noise.

(iii) Weigh all incoming waste on scales for landfills having a permitted capacity of greater than ten thousand cubic yards per year or provide an equivalent method of measuring waste tonnage capable of estimating total annual solid waste tonnage to within plus or minus five percent;

(iv) Provide for employee facilities including shelter, toilets, hand washing facilities and potable drinking water for landfills having the equivalent of three or more full-time employees;

(v) Erect a sign at the site entrance that identifies at least the name of site, if applicable, the hours during which the site is open for public use, unacceptable materials and an emergency telephone number. Other pertinent information may be required by the jurisdictional health department;

(vi) Provide on-site fire protection as determined by the local and state fire control jurisdiction;

(vii) Prevent potential rat and other vectors (such as insects, birds, and burrowing animals) harborage in buildings, facilities, and active areas;

(viii) Provide the unloading area(s) to be as small as possible, consistent with good traffic patterns and safe operation;

(ix) Provide approach and exit roads to be of all-weather construction, with traffic separation and traffic control on-site, and at the site entrance; and

(x) Provide communication between employees working at the landfill and management offices on-site and off-site (such as telephones) to handle emergencies.

(4) Minimum functional standards for maintenance and operation.

(a) Operating plans. All owners or operators of landfills shall maintain and operate the facility so as to conform to the approved plan of operation.

(b) Operating details. All owners or operators of landfills shall operate the facility so as to:

- (i) Control road dust;
- (ii) Perform no open burning unless permitted by the jurisdictional air pollution control agency or the department under the Washington Clean Air Act, chapter 70-.94 RCW. Garbage shall not be open burned.

(iii) Collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;

(iv) Prohibit scavenging;

(v) Conduct on-site reclamation in an orderly sanitary manner, and in a way that does not interfere with the disposal site operation;

(vi) Insure that at least two landfill personnel are on-site with one person at the active face when the site is

open to the public for landfills with a permitted capacity of greater than fifty thousand cubic yards per year;

(vii) Control insects, rodents and other vectors; and

(viii) Insure that reserve operational equipment shall be available to maintain and meet these standards.

(c) Boundary posts. All owners or operators of landfills shall clearly mark the active area boundaries authorized in the permit, with permanent posts or using equivalent method clearly visible for inspection purposes.

(d) Compaction and daily cover. All owners or operators of landfills shall:

(i) Thoroughly compact the solid waste before succeeding layers are added; and

(ii) Cover compacted waste containing garbage fully with at least six inches of compacted cover material after each day of operation. The jurisdictional health department may allow less frequent covering by considering:

(A) The characteristics of the solid waste;

(B) The climatic and geologic setting;

(C) The size of the facility; and

(D) The potential for nuisance conditions.

(e) Monitoring systems. All owners and operators of landfills shall maintain the monitoring system required in subsection (3)(g)(ii) of this section.

(f) Recycling required.

(i) All owners or operators of landfills at which the general public delivers household solid waste shall provide the opportunity for the general public to recycle cans, bottles, paper and other material for which a market exists and brought to the landfill site:

(A) During the normal hours of operation;

(B) In facilities convenient to the public (i.e., near entrance to the gate).

(ii) Owners or operators may demonstrate alternative means to providing an opportunity to the general public to recycle household solid waste.

(g) Disposal of dangerous waste prohibited. Owners or operators of landfills shall not knowingly dispose, treat, store, or otherwise handle dangerous waste unless the requirements of the dangerous waste regulation, chapter 173-303 WAC are met.

(5) Minimum functional standards for closure and postclosure.

(a) All owners or operators of landfills shall close landfills in such a manner as to comply with WAC 173-304-405(6).

(b) All owners or operators of landfills shall close landfills in a manner that:

(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary threats to human health and the environment from postclosure escape of solid waste constituents, leachate, landfill gases, contaminated rainfall or waste decomposition products to the ground, surface water, ground water or the atmosphere;

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible; and

(iv) Allows for continued monitoring of all media (air, land and water) as long as necessary for the waste to

stabilize and to protect human health and the environment.

(c) All owners or operators of landfills must have a written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate must equal the cost of closure at the point in the operating life of the facility when the extent and manner of operation would make closure the most expensive; as indicated by the closure plan.

In addition, all facilities must have a written postclosure estimate, in current dollars, the cost of postclosure monitoring and maintenance during the postclosure period.

(6) Limited purpose landfill standards.

(a) Limited purpose landfills shall meet the following requirements:

(i) The general facility standards of WAC 173-304-405;

(ii) The performance standards of WAC 173-304-460(2);

(iii) The ground water monitoring standards of WAC 173-304-490;

(b) In addition, limited purpose landfills must meet all other standards of WAC 173-304-130 and 173-304-460 unless the owner or operator applies for relief from each of these requirements as part of his permit application and includes evidence or reasons why the nature of the waste, the disposal site and other factors can protect the environment and the public health. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-460, filed 10/28/85.]

**WAC 173-304-461 Inert waste and demolition waste landfilling facility requirements.** (1) Applicability. These standards apply to facilities that landfill more than two thousand cubic yards of inert wastes and demolition wastes, as defined in WAC 173-304-100, including facilities that use inert waste and demolition waste as a component of fill. Inert wastes and demolition wastes used as road building materials are excluded from this section. These standards do not apply to asbestos containing waste regulated under the federal 40 CFR Part 61 rules and the dangerous waste regulation, chapter 173-303 WAC.

(2) Inert wastes and demolition waste landfilling facilities shall not be subject to the Locational standards for disposal sites, WAC 173-304-130 except for WAC 173-304-130 (2)(f), slope.

(3) Owners or operators of inert waste and demolition waste landfill shall maintain a record of the weights or volumes and types of waste disposed of at each site.

(4) Owners or operators of inert wastes and demolition landfills shall employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance. Preventative measures include watering of roads and covering.

(5) Timbers, wood and other combustible waste shall be covered as needed during the summer months to avoid a fire hazard.

(6) Owners or operators of inert wastes and demolition landfills shall close the facility by leveling the wastes to the extent practicable and shall fill any voids posing a physical hazard for persons after closure and to maintain an aesthetic appearance. A minimum of one foot of soil cover shall be used to close landfills.

(7) Owners or operators of inert waste and demolition waste landfills shall obtain a permit, as set forth in WAC 173-304-600 from the jurisdictional health department.

(8) Owners or operators of inert wastes and demolition landfills shall meet the requirements of WAC 173-304-405(7), recording with the county auditor.

(9) Owners or operators of inert waste or demolition waste landfills shall not accept any other form of waste except inert waste and demolition waste.

(10) Owners or operators of inert waste and demolition waste landfills shall prevent unauthorized disposal during off-hours by controlling entry (i.e., lockable gate or barrier) when the facility is not being used. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-461, filed 10/28/85.]

**WAC 173-304-462 Woodwaste landfilling facility requirements.** (1) Applicability. These requirements apply to facilities that landfill more than two thousand cubic yards of woodwaste including facilities that use woodwaste as a component of fill. Woodwaste is defined in WAC 173-304-100. These standards are not applicable to woodwaste landfills on forest lands regulated under the Forest Practices Act, chapter 76.09 RCW.

(2) Minimum functional standards.

(a) Woodwaste landfills are not subject to WAC 173-304-130 standards, Locational standards for disposal sites, except for WAC 173-304-130 (2)(e) surface water locational standards and WAC 173-304-130 (2)(b)(iii) down gradient drinking water supply wells. Woodwastes may be used as a component of fill within a shoreline and associated wetlands only if a demonstrated and proven technology to prevent ground and surface water contamination is used.

(b) Owners or operators of woodwaste landfills shall maintain a record of the weights or volumes of waste disposed of at each facility.

(c) Owners or operators of woodwaste landfills shall not accept any other wastes except woodwaste.

(d) Owners or operators of woodwaste landfills shall prevent run-on from a maximum twenty-five year storm.

(e) All wood waste landfills having a capacity of greater than ten thousand cubic yards at closure shall either:

(i) Have a ground water monitoring system that complies with WAC 173-304-490 and the woodwaste landfill meet the performance standards of WAC 173-304-460(2); or

(ii) Have a leachate collection and treatment system.

(f) Owners or operators of woodwaste landfills shall not deposit woodwaste in lifts to a height of more than ten feet per lift with at least one foot of cover material

between lifts to avoid hot spots and fires in the summer and to avoid excessive build-up of leachate in the winter, and shall compact woodwaste as necessary to prevent voids.

(g) Owners or operators of woodwaste landfills shall prevent unauthorized disposal during off-hours by controlling entry (i.e., lockable gate or barrier), when the facility is not being used.

(h) Owners or operators of woodwaste landfills shall close the facility by leveling and compacting the wastes and applying a compacted soil cover of at least two feet thickness.

(i) Owners or operators of woodwaste landfills shall obtain a permit as set forth in WAC 173-304-600 from the jurisdictional health department. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-462, filed 10/28/85.]

**WAC 173-304-463 Problem waste landfills. (reserved)** [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-463, filed 10/28/85.]

**WAC 173-304-470 Other methods of solid waste handling.** (1) Applicability. This section applies to other methods of solid waste handling such as a material resource recovery system for municipal waste not specifically identified elsewhere in this regulation, nor excluded from this regulation.

(2) Requirements. Owners and operators of other methods of solid waste handling shall:

(a) Comply with the requirements in WAC 173-304-405;

(b) Obtain a permit under WAC 173-304-600 from the jurisdictional health department, by submitting an application containing information required in WAC 173-304-600 (3)(a), and such other information as may be required by the jurisdictional health department and the department, including:

(i) Preliminary engineering reports and plans and specifications; and

(ii) A closure plan. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-470, filed 10/28/85.]

**WAC 173-304-490 Ground water monitoring requirements.** (1) Applicability. These requirements apply to owners and operators of landfills, piles, landspreading disposal facilities, and surface impoundments that are required to perform ground water monitoring under WAC 173-304-400.

(2) Ground water monitoring requirements.

(a) The ground water monitoring system must consist of at least one background or upgradient well and three down gradient wells, installed at appropriate locations and depths to yield ground water samples from the upper most aquifer and all hydraulically connected aquifers below the active portion of the facility.

(i) Represent the quality of background water that has not been affected by leakage from the active area; and

(ii) Represent the quality of ground water passing the point of compliance. Additional wells may be required by the jurisdictional health department in complicated hydrogeological settings or to define the extent of contamination detected.

(b) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata and in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of water wells.

(c) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance;

(v) Chain of custody control; and

(vi) Procedures to ensure employee health and safety during well installation and monitoring.

(d) Sample constituents.

(i) All facilities shall test for the following parameters:

(A) Temperature;

(B) Conductivity;

(C) pH;

(D) Chloride;

(E) Nitrate, nitrite, and ammonia as nitrogen;

(F) Sulfate;

(G) Dissolved iron;

(H) Dissolved zinc and manganese;

(I) Chemical oxygen demand;

(J) Total organic carbon; and

(K) Total coliform.

(ii) The jurisdictional health department in consultation with the department may specify additional or fewer constituents depending upon the nature of the waste; and

(iii) Test methods used to detect the parameters of (d)(i) of this subsection shall be EPA Publication Number SW-846, *Test Methods for Evaluating Solid Waste - Physical/Chemical Methods* except for total coliform which shall use the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

(e) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(f) The owner or operator shall use a statistical procedure for determining whether a significant change over background has occurred. The jurisdictional health department will approve such a procedure with the guidance of the department.

(g) The owner or operator must determine ground water quality at each monitoring well at the compliance point at least quarterly during the life of an active area (including the closure period) and the postclosure care period. The owner or operator must express the ground

water quality at each monitoring well in a form necessary for the determination of statistically significant increases.

(h) The owner or operator must determine and report the ground water flow rate and direction in the uppermost aquifer at least annually.

(i) If the owner or operator determines that there is a statistically significant increase for parameters or constituents at any monitoring well at the compliance point, the owner or operator must:

(i) Notify the jurisdictional health department of this finding in writing within seven days of receipt of the sampling data. The notification must indicate what parameters or constituents have shown statistically significant increases;

(ii) Immediately resample the ground water in all monitoring wells and determine the concentration of all constituents listed in the definition of contamination in WAC 173-304-100 including additional constituents identified in the permit and whether there is a statistically significant increase such that the ground water performance standard has been exceeded, and notify the jurisdictional health department within fourteen days of receipt of the sampling data.

(j) The jurisdictional health department may require corrective action programs including facility closure if the performance standard of WAC 173-304-460 (2)(a) is exceeded and, in addition, may revoke any permit and require reapplication under WAC 173-304-600.

(3) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum with the approval of the jurisdictional health officer:

(a) Implement a corrective action program that reduces contamination and if possible prevents constituents from exceeding their respective concentration limits at the compliance point by removing the constituents, treating them in place, or other remedial measures;

(b) Begin corrective action according to a written schedule after the ground water performance standard is exceeded;

(c) Terminate corrective action measures once the concentrations of constituents are reduced to levels below the limits under WAC 173-304-460 (2)(a). [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-490, filed 10/28/85.]

**WAC 173-304-600 Permit requirements for solid waste facilities.** (1) Applicability.

(a) All facilities which are subject to the standards of WAC 173-304-130, 173-304-300, and 173-304-400 are required to obtain permits. Permits are not required for single family residences and single family farms dumping or depositing solid waste resulting from their own activities on to or under the surface of land owned or leased by them when such action does not create a nuisance, violate statutes, ordinances, or regulations, including this regulation.

(b) Permits are not required for corrective actions at solid waste handling facilities performed by the state

and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state and/or federal cleanup order provided that:

(i) The action results in an overall improvement of the environmental impact of the site;

(ii) The action does not require or result in additional waste being delivered to the site or increase the amount of waste or contamination present at the site;

(iii) The facility standards of WAC 173-304-400 are met; and

(iv) The jurisdictional health department is informed of the actions to be taken and is given the opportunity to review and comment upon the proposed corrective action plans.

(c) Effective dates. The effective dates are as follows:

(i) The permit requirements of this section apply to all existing waste handling facilities eighteen months after the effective date of this regulation.

(ii) Between the effective date of this regulation and eighteen months thereafter, existing facilities will operate under the terms and conditions of existing permits valid on the effective date of this regulation. Jurisdictional health departments shall incorporate compliance schedules into valid existing permits; such compliance schedules shall insure that existing facilities meet the effective dates of WAC 173-304-400(3).

(iii) New and expanded waste handling facilities shall meet the requirements of this section on the effective date of this regulation.

(2) Procedures for permits.

(a) Any owner or operator subject to the permit requirements who intends to operate a facility must apply for a permit with the jurisdictional health department. Filing shall not be complete until two copies of the application have been signed by the owner and operator and received by the jurisdictional health department, and the applicant has filed an environmental checklist required under the State Environmental Policy Act rules, chapter 197-11 WAC.

(b) Applications for a permit must contain the information set forth in subsection (3) of this section.

(c) Once the jurisdictional health department determines that an application for a permit is factually complete, it shall refer one copy to the appropriate regional office of the department for review and comment.

(d) The jurisdictional health department shall investigate every application to determine whether the facilities meet all applicable laws and regulations, conforms with the approved comprehensive solid waste handling plan and complies with all zoning requirements.

(e) The jurisdictional health department may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the county treasury in the account from which the health department's operating expenses are paid.

(f) The department shall report to the jurisdictional health department its findings on each permit application within forty-five days of receipt of a complete application or inform the jurisdictional health department as to the status of the application. Additionally, the department shall recommend for or against the issuance of each permit by the jurisdictional health department.

(g) When the jurisdictional health department has evaluated all pertinent information, it may issue a permit. Every completed solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department or the applicant shall be informed as to the status of the application.

(h) Except for applications specified in subsection (3)(h) of this section every permit issued by a jurisdictional health department shall be on a format prescribed by the department and shall contain specific requirements necessary for the proper operation of the permitted site or facility including the requirement that final engineering plans and specifications be submitted for approval to the jurisdictional health department.

(i) All issued permits must be filed with the department no more than seven days after the date of issuance.

(j) The owner or operator of a facility shall apply for renewal of the facility's permit annually. The jurisdictional health department shall annually:

(i) Review the original application for compliance with these regulations and submit such additional information as spelled out in subsection (4) of this section;

(ii) Review information collected from inspections, complaints, or known changes in the operations;

(iii) Collect the renewal fee;

(iv) Renew the permit; and

(v) File the renewed permit with the department no more than seven days after the date of issuance. The department shall review and may appeal the renewal as set forth in RCW 70.95.185 and 70.95.190.

(3) Application contents for permits for new or expanded facilities.

(a) All permit applications except for inert waste, demolition waste, special purpose landfills, woodwaste landfill and recycling facilities applications, which are specified in (h) of this subsection, shall contain the following:

(i) A general description of the facility;

(ii) The types of waste to be handled at the facility;

(iii) The plan of operation required by WAC 173-304-405(2);

(iv) The form used to record weights or volumes required by WAC 173-304-405(3);

(v) An inspection schedule and inspection log required by WAC 173-304-405(5); and

(vi) Documentation to show that any domestic or industrial waste water treatment facility, such as a leachate treatment system, is being reviewed by the department under chapter 173-240 WAC.

(b) Application contents for permits for new or expanded landfill facilities. In addition to the requirements of (a) of this subsection, each landfill application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses:

(A) Local/regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;

(B) Evaluation of bedrock and soil types and properties;

(C) Depths to ground water and/or aquifer(s);

(D) Direction and flow rate of local ground water;

(E) Direction of regional ground water;

(F) Quantity, location and construction (where available) of private and public wells within a two thousand foot radius of site;

(G) Tabulation of all water rights for ground water and surface water within a two thousand foot radius of the site;

(H) Identification and description of all surface waters within a one-mile radius of the site;

(I) Background ground and surface water quality assessment, and for expanded facilities, identification of impacts of existing facilities of the applicant to date upon ground and surface waters from landfill leachate discharges;

(J) Calculation of a site water balance;

(K) Conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable a vadose zone monitoring plan;

(L) Land use in the area, including nearby residences; and

(M) Topography of the site and drainage patterns.

(ii) Preliminary engineering report/plans and specifications that address:

(A) How the facility will meet the locational standards of WAC 173-304-130;

(B) Relationship of facility to county solid waste comprehensive plan and the basis for calculating the facility's life;

(C) The design of bottom and side liners;

(D) Identification of borrow sources for daily and final cover, and soil liners;

(E) Interim/final leachate collection, treatment, and disposal;

(F) Landfill gas control and monitoring;

(G) Trench design, fill methods, elevation of final cover and bottom liner, and equipment requirements; and

(H) Closure/postclosure design, construction, maintenance, and land use.

(iii) An operation plan that addresses:

(A) Operation and maintenance of leachate collection, treatment, and disposal systems;

(B) Operation and maintenance of landfill gas control systems;

(C) Monitoring plans for ground water, surface water, and landfill gases to include sampling technique, frequency, handling, and analyses requirements;

(D) Safety and emergency accident/fire plans;

(E) Routine filling, grading, cover, and housekeeping;

(F) Record system to address records on weights (or volumes), number of vehicles and the types of waste received;

(G) Vector control plans; and

(H) Noise control.

(iv) Closure plan to address:

(A) Estimate of closure season/year;

(B) Capacity of site in volume and tonnage;

(C) Maintenance of active fill versus completed, final covered acreage;

(D) Estimated closure construction timing and notification procedures;

(E) Inspection by regulatory agencies.

(v) Postclosure plan to address:

(A) Estimated time period for postclosure activities;

(B) Site monitoring of landfill gas, ground water, and surface water;

(C) Deed clause changes, land use, and zoning restrictions;

(D) Maintenance activities to maintain cover and run-off systems; and

(E) Identification of final closure costs including cost calculations and the funding mechanism.

(c) Application contents for new or expanded transfer stations, drop box facilities, and baling and compaction systems requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain preliminary engineering report/plans and specifications that address:

(i) The proposed facility's zoning status;

(ii) The relationship to the county solid waste comprehensive plan and the area to be served by the facility; and

(iii) The facility design to address how the facility shall meet requirements of WAC 173-304-410, including closure.

(d) Application contents for new or expanded surface impoundments requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;

(ii) Preliminary engineering report/plans and specifications that address, where applicable:

(A) How the proposed facility will meet the locational standards of WAC 173-304-130;

(B) The relationship of facility to the county solid waste comprehensive plan;

(C) The design of liners and foundation to be incorporated in the facilities design including the design leachate of collection and treatment systems;

(D) The design of ground water monitoring;

(E) The design of dikes including calculations on dike stability analyses under conditions of liner failure;

(F) Other design details, including sludge cleanout and disposal, overfilling alarms and inlet design; and

(G) Closure/postclosure design, construction maintenance and land use.

(iii) An operation plan that addresses:

(A) Operation and maintenance of leachate collection system, or ground water monitoring;

(B) Operation and maintenance of overfilling equipment or details of filling and emptying techniques;

(C) Inspection of dikes and liners for integrity; and



- (D) Safety and emergency plans.
- (iv) A closure plan to address:
  - (A) Estimate of closure year and cost;
  - (B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;
  - (C) Closure timing and notification procedures; and
  - (D) Final inspection by regulatory agencies.
- (e) Application contents for new or expanded piles requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:
  - (i) Preliminary engineering reports/plans and specifications that address:
    - (A) How the proposed facility will meet the locational standards of WAC 173-304-130;
    - (B) The relationship of the facility to the county solid waste comprehensive plan and zoning;
    - (C) The design of the liner or sealed surface upon which the liner rests, including an analysis of the liners ability to withstand the stress;
    - (D) The design of the run-on and run-off system;
    - (E) The design to avoid washout when the pile is located in a one hundred year floodplain; and
    - (F) Maximum elevation and boundaries of the waste pile.
  - (ii) An operation plan that addresses:
    - (A) Methods of adding or removing wastes from the pile and equipment used;
    - (B) Inspection of the liner for integrity; and
    - (C) Safety and emergency plans.
  - (iii) A closure plan to address:
    - (A) Estimate of closure year and cost;
    - (B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;
    - (C) Closure timing and notification procedures; and
    - (D) Final inspection by regulatory agencies.
- (f) Application contents for new or expanded energy recovery and incinerator facilities requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:
  - (i) Preliminary engineering reports/plans and specifications that address:
    - (A) The relationship of the facility to the county solid waste comprehensive plan and zoning;
    - (B) The design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash and any other wastes produced by air or water pollution controls; and
    - (C) The design of the incinerator or thermal treater, including changing or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.
  - (ii) An operation plan that addresses:
    - (A) Cleaning of storage areas as required by WAC 173-304-440 (2)(a);
    - (B) Alternative storage plans for breakdowns as required in WAC 173-304-440 (2)(c);

- (C) Inspection to insure compliance with state and local air pollution laws and to comply with WAC 173-304-405(5). The inspection log or summary must be submitted with the application; and
- (D) How and where the fly ash, bottom ash and other solid wastes will be disposed of.
- (iii) A closure plan to address:
  - (A) Estimate of closure year and cost;
  - (B) Methods of closure and methods of removing wastes, equipment, and location of final disposal;
  - (C) Closure timing and notification procedures; and
  - (D) Final inspection by regulatory agencies.
- (g) Application contents for new or expanded landspreading disposal facilities requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:
  - (i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;
  - (ii) Preliminary engineering reports/plans and specifications that address:
    - (A) How the proposed facility will meet the locational standards of WAC 173-304-130;
    - (B) The relationship of the facility to the county solid waste comprehensive plan and the basis for calculating the facility's life;
    - (C) Waste analyses and methods to periodically sample and analyze solid waste;
    - (D) Design of interim waste storage facilities if such facilities are not otherwise permitted by the department;
    - (E) Design of run-on and run-off systems;
    - (F) A contour map of the active area showing contours to the nearest foot;
    - (G) A ground water and surface water monitoring program; and
    - (H) Access barriers such as fences, and warning signs.
  - (iii) An operation plan that addresses:
    - (A) Operation and maintenance of run-off and run-on systems;
    - (B) Methods of taking ground water samples and for maintaining ground water monitoring systems;
    - (C) Methods of applying wastes to meet the requirements of WAC 173-304-450 (2)(d):
      - (I) Estimated multiples of agronomic rates;
      - (II) Frequency of discing; and
      - (III) Avoidance of standing water.
    - (D) The written contract required between landowners, waste generators and waste operators.
  - (iv) Closure plan to address:
    - (A) Estimate of closure season/year;
    - (B) Capacity of site in volume and tonnage;
    - (C) Year-to-year maintenance of the active area versus completed, final covered acreage;
    - (D) Closure construction timing and notification procedures; and
    - (E) Final inspection by regulatory agencies.
  - (v) Postclosure plan to address:
    - (A) Estimated time period for postclosure activities;
    - (B) Site monitoring of ground water;
    - (C) Deed clause changes, land use, and zoning restrictions;

(D) Maintenance activities to maintain cover and run-off systems;

(E) Plans for food chain crops being grown on the active areas, after closure; and

(F) Identification of final closure costs including cost calculations and the funding mechanism.

(h) Application contents for new or expanded inert waste and demolition waste, special purpose landfill, woodwaste landfills, and recycling facilities.

Applications for permits subject to the standards of WAC 173-304-300, 173-304-460(6), 173-304-461, and 173-304-462 shall be on forms whose content shall be specified by the jurisdictional health department.

(4) Application contents for existing facilities renewing permits. All owners or operators of existing facilities shall renew permits or application forms specified in subsection (3) of this section. Previous information submitted to the jurisdictional health department may be referred to on the application forms. Changes in operating methods or other changes must be noted on the application in order to be authorized by permit.

(5) Inspections. As a minimum, annual inspections of all permitted solid waste facilities shall be performed by the jurisdictional health department. Any duly authorized officer, employee, or representative of the jurisdictional health officer or his designee having jurisdiction may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings shall be noted and kept on file. A copy of the inspection report or annual summary shall be furnished to the site operator. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-600, filed 10/28/85.]

**WAC 173-304-700 Variances.** (1) Any person who owns or operates a solid waste facility may apply to the jurisdictional health officer for a variance from any section of this regulation. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(a) The solid waste handling practices or location do not endanger public health, safety or the environment; and

(b) Compliance with the regulation from which variance is sought would produce hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(3) Any variance or renewal shall be granted within the requirements of subsection (1) of this section and for time period and conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(b) The jurisdictional health department may grant a variance conditioned by a time table if:

(i) Compliance with the regulation will require spreading of costs over a considerable time period; and

(ii) The time table is for a period that is needed to comply with the regulation.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. No renewal thereof shall be granted, unless following a public hearing on the complaint or due notice, the jurisdictional health department finds the renewal is justified. No renewal shall be granted except on application. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the jurisdictional health department shall give public notice of such application in accordance with rules and regulations of the jurisdictional health department.

(5) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(6) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

(7) Variances granted by a jurisdictional health department will be accepted as variances under this regulation.

(8) Public notice shall be given by mailing a notice of the variance application to persons who have written to the jurisdictional health department asking to be notified of all variance requests. [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-700, filed 10/28/85.]

**WAC 173-304-9901 Maximum contaminant levels for ground water.** Maximum contaminant levels for ground water shall be those specified in chapter 248-54 WAC, as the primary drinking water standards. Analytical methods for these contaminants may be found in the Code of Federal Regulations 40 CFR Part 141. (These contaminant levels are to be considered interim levels for the purpose of regulating solid waste handling facilities and shall be used until such time as the department establishes ground water quality standards for all types of activities impacting ground water.) [Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-9901, filed 10/28/85.]

**Chapter 173-305 WAC**  
**HAZARDOUS WASTE FEE REGULATION**

## WAC

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173-305-080	Assessments for combined sites.
173-305-090	Adjustment of fees and limits.

**WAC 173-305-010 Purpose.** This chapter implements the provisions of chapter 70.105A RCW (chapter 65, Laws of 1983 1st ex. sess.), establishing a means for funding hazardous waste control activities in this state. The purpose of this chapter is to describe the methods by which the department of ecology will assess certain fees, to whom the fees will be assessed, the amount of such fees, provisions for exemption from and enforcement of fee assessments, coordination between the departments of ecology and revenue, and procedures for adjusting fees. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-010, filed 2/7/84.]

**WAC 173-305-015 Applicability.** (1) General. The requirements of WAC 173-305-010 through 173-305-020 and 173-305-080 through 173-305-090 apply to all persons who generate, recycle, transfer, treat, store, or dispose of hazardous wastes in this state.

## (2) Generators.

(a) The requirements of WAC 173-305-030 through 173-305-050 apply only to those persons utilizing or operating identified sites.

(b) The requirements of WAC 173-305-030 through 173-305-050 do not apply to:

(i) Any person who is exclusively a small quantity generator (as described in chapter 173-303 WAC) during a calendar year;

(ii) Any person who accepts hazardous waste only from small quantity generators (as described in chapter 173-303 WAC) and who then sends such hazardous waste off-site in accordance with chapter 173-303 WAC, provided that the person does not originate his own hazardous waste; and

(iii) Any hazardous waste generated by a facility which is operating, for such hazardous waste, as a transfer facility under a permit administered pursuant to chapter 173-303 WAC, if such hazardous waste does not originate at the facility and has not been stored at the facility for more than one year.

For the purposes of (b) of this subsection, a person or facility originates a hazardous waste if such hazardous waste occurs as a result of a physical, chemical or biological process performed by the person or at the facility. A hazardous waste is not originated if, when it leaves a site, it is the same as when it arrived.

(3) Facilities. The requirements of WAC 173-305-060 through 173-305-070 apply only to those persons

who operate facilities which are subject to a permit administered pursuant to chapter 173-303 WAC.

(4) Exclusions. The requirements of this chapter do not apply to:

(a) Hazardous wastes which are not subject to regulations adopted pursuant to chapter 70.105 RCW;

(b) Radioactive wastes; or

(c) Wastes generated primarily from the combustion of coal or other fossil fuels. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-015, filed 2/7/84.]

**WAC 173-305-020 Definitions.** Any terms not specifically defined in this section shall, for the purposes of this chapter, have the same meaning as given in WAC 173-303-040. The following terms are defined for the purposes of this chapter:

(1) "Annual gross income" of a business means the value proceeding or accruing during a calendar year by reason of the transaction of the business or service engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(2) "Business activities" means activities of any person subject to the generator fee of WAC 173-305-030 and who is "engaging in business" as this term is defined in chapters 82.04 and 82.16 RCW;

(3) "Combined site" means any location which is both a facility and an identified site (as these terms are defined in this section);

(4) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(5) and shall specifically include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW;

(5) "Department" means the department of ecology;

(6) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(6) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW;

(7) "Facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for recycling, transferring, treating, storing, or disposing of hazardous waste;

(8) "Fee" means the annual hazardous waste control and elimination assessment fee imposed under RCW 70.105A.030 and the fee for treatment, storage, and disposal facilities imposed under RCW 70.105A.040;

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

(10) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes;

(11) "Identified site" means the same or geographically contiguous property, which may be divided by a public or private right of way, provided that access between the properties occurs at an intersection and crosses, as opposed to goes along, the right of way. Noncontiguous properties owned by the same person but connected by a right of way will be considered a single identified site if the person controls the right of way and can prevent public access. For the purposes of this chapter, a property (or properties) will be an identified site only if it meets the conditions described above in this subsection, and only if hazardous waste is generated there during a calendar year;

(12) "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 organization;

(13) "SIC" means standard industrial classification and refers to the four digit numbers assigned to business activities from the federal Office of Management and Budget's "Standard Industrial Classification Manual," revised 1983;

(14) "Ton" means two thousand pounds; and

(15) "Manufacturer," "retailer," "wholesaler," and "person engaging in service activities" shall have the meanings attributed to such terms in chapter 82.04 RCW and shall include all persons taxable for such activities under that chapter. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-020, filed 2/7/84.]

**WAC 173-305-030 Generator fees.** This section describes the methods and criteria by which the department will: Determine the business activities that will be assessed generator fees (subsection (1) of this section); determine and apportion annual gross income (subsection (2) of this section); develop the generator fee schedule (subsection (3) of this section); assess fees (subsection (4) of this section); and provide for exemption from or reduction of a fee (subsection (5) of this section).

(1) Selection of businesses and generators. This subsection describes how the department will select those individuals and businesses who will be assessed a generator fee.

(a) List of business activities. The legislature provided the following list of business activities which may be assessed a generator fee:

(i) Exploring for, extracting, beneficiating, processing, or selling metallic or nonmetallic minerals;

(ii) Exploring for, extracting, processing, or selling coal;

(iii) Producing, distributing, or selling electricity;

(iv) Industrial or nonresidential contracting or heavy construction;

(v) Painting or sandblasting;

(vi) Producing, processing, or selling rubber or plastics;

(vii) Producing, processing, or selling glass, cement, or concrete;

(viii) Cutting, milling, producing, preparing, or selling lumber or wood products, including wooden furniture or fixtures;

(ix) Producing, preparing, or selling paper or allied products;

(x) Printing or publishing;

(xi) Synthesizing, producing, processing, preparing, or selling chemicals or allied products;

(xii) Exploring for, extracting, producing, processing, distributing, or selling petroleum or gas;

(xiii) Fabricating rubber or plastic products;

(xiv) Beneficiating, processing, or selling primary or secondary metals;

(xv) Fabricating metal products, including metal furniture or fixtures;

(xvi) Fabricating, constructing, preparing, installing, or selling machinery or supplies;

(xvii) Fabricating, constructing, installing, preparing, or selling electrical or electronic equipment, machinery, or supplies;

(xviii) Fabricating, producing, preparing, or selling transportation equipment;

(xix) Transporting by railroad, motor vehicle, or water vessel;

(xx) Telephone communication;

(xxi) Drycleaning, photofinishing, or furniture refinishing;

(xxii) Transferring, treating, storing, or disposing of solid, dangerous, or extremely hazardous wastes; and

(xxiii) Repairing or servicing motor vehicles, railroad equipment, or water vessels.

(b) Selecting businesses for assessment. The department will select businesses for assessing fees as described in this subsection. In general, two different mechanisms will be used to identify those persons who will be assessed a fee. For the purposes of this chapter, the groups selected by these two mechanisms will be named: Specific businesses (procedures for selection are described in (b)(i) of this subsection); and nonspecific businesses (procedures for selection are described in (b)(ii) of this subsection).

(i) Specific businesses. Any person who has notified pursuant to chapter 173-303 WAC as a generator of hazardous wastes and who utilizes or operates an identified site will be assessed a generator fee.

(ii) Nonspecific businesses. The department will develop a list of businesses by standard industrial classification (SIC) numbers. This list appears in WAC 173-305-040 and will be developed on the following bases:

(A) The businesses are included in the legislative list of subsection (1)(a) of this section; and

(B) The information on specific businesses that have notified and reported as hazardous waste generators supports the inclusion of SIC numbers on the list.

The department of revenue will provide the names and addresses of businesses which conduct activities specified in the SIC list as requested by the department of ecology. The department of ecology will notify these businesses in writing that they have been identified as

possible generators of hazardous waste. They will be requested to submit to the department of ecology within thirty days either a written description of their wastes (including but not limited to type, source and quantity for each waste), or else a signed and dated certification that they do not generate hazardous waste. The certification will be as follows:

"I certify that I am familiar with the requirements of chapter 173-303 WAC, Dangerous waste regulations, and with the waste designation procedures thereof, and that I do not believe any of my wastes to be hazardous wastes based on my own knowledge and on my inquiry of those individuals responsible for performing such hazardous waste designation procedures."

The department of ecology will use the information submitted by the nonspecific businesses, and any other pertinent information, to determine which of those businesses are subject to a generator fee. If a person certifies that his business does not generate hazardous waste, then he will not be assessed a fee. If a person submits information which shows that he generates a hazardous waste, then he will be assessed a generator fee calculated according to the procedures for specific businesses, with the information he has submitted being used in lieu of an annual report. If a person does not submit either a certification or information on his wastes, then the department of ecology will conclude that he is utilizing or operating an identified site and he will be assessed a generator fee calculated according to the procedures for nonspecific businesses.

(c) Identified sites. For the purposes of this chapter, no property will be an identified site unless hazardous waste is generated there during a calendar year. Each identified site will be assessed one fee annually, the size of the fee to depend on the risk and quantity of the hazardous wastes generated there and the apportioned annual gross income of the site (see subsections (2) and (3) of this section). If one person utilizes or operates more than one identified site, he will be responsible for all fees assessed to his identified sites. To a reasonable extent, the department will attempt to determine all identified sites owned or operated by the same person. However, the department's inability to detect all identified sites owned or operated by the same person will not delay the issuance of assessments, nor will it form a just cause for refusal to pay an assessed fee.

(2) Annual gross income (AGI); apportionment.

(a) Annual gross income. AGI for each person's assessed business will be obtained from the department of revenue. The AGI obtained from the department of revenue for persons whose business activities earn income without as well as within the state will reflect the portion of total AGI attributable to activities within the state. Such attribution will be calculated pursuant to chapters 82.04 and 82.16 RCW. AGI reported to the department of ecology shall be used solely for the purpose of determining fee amounts. Confidentiality of AGI shall be maintained in accordance with department of revenue laws, regulations, and procedures.

(b) Apportionment. Except as otherwise provided in (b)(ii) and (iii) of this subsection, the department shall apportion AGI for specific businesses among identified sites utilized or operated by an assessed person as described in (b)(i) of this subsection. In the case of nonspecific businesses, the person's AGI will be apportioned as if he had only one identified site, except as provided in subsection (5) of this section. Whenever an apportioned AGI is calculated to a fraction of a cent, the figure will be rounded to the nearest whole cent (e.g., \$27,611.5235 would be rounded to \$27,611.52).

(i) The department will apportion AGI equally among a person's identified sites without regard to the amount or nature of business at the sites. This will be done by dividing the total AGI for the assessed person by the number of his identified sites. For example:

(A) AGI reported for a person's business is \$7,252,320.18. The person utilizes four identified sites to conduct his activities. Thus, the apportioned AGI for each identified site would be \$1,813,080.05;

(B) AGI reported for a person's business is \$58,112.45. His business is conducted at two locations, but only one is an identified site. Therefore, the apportioned AGI for his identified site would be \$58,112.45.

(ii) Any person who is subject to a fee may request, through the procedure described in subsection (5) of this section, that the department reapportion AGI among his identified sites according to each identified site's share of AGI. His total AGI will still be apportioned only among his identified sites. The share of his total AGI reapportioned to an identified site will be determined by multiplying his total AGI by a factor derived from dividing the AGI contributed from the identified site to the total AGI by the AGI contributed from all of his identified sites. The following formula will be used:

$$\text{AGI(R)} = \text{AGI} \times \frac{\text{AGI(IS)}}{\text{AGI (TIS)}}$$

Where

- AGI(R) = The share of AGI that will be reapportioned to an identified site  
 AGI = Total AGI attributable to the person's business in the state  
 AGI(IS) = The AGI contributed by the identified site to the total AGI  
 AGI(TIS) = The sum of the AGI contributed by all of the person's identified sites

The following example shows how this reapportionment will work.

A generator's AGI for a calendar year is \$35,254,378.12. During that calendar year, he operates three identified sites at which hazardous wastes are generated. For this example, these sites will be identified as SA, SB, and SC. Site SA contributes \$5,464,212.04 to the generator's total AGI, site SB contributes \$2,372,011.09, site SC contributes \$675,283.87, and the balance of his AGI comes from other properties which are not identified sites. The sum of the AGI contributed by his three identified sites, AGI(TIS), is \$8,511,507.00.

The share of the generator's AGI that will be reapportioned to site SA is calculated as  $(\$35,254,378.12) \times (\$5,464,212.04 \div \$8,511,507.00) = \$22,632,584.03$ . For site SB the reapportionment is calculated as  $(\$35,254,378.12) \times (\$2,372,011.09 \div \$8,511,507.00) = \$9,824,790.82$ . For site SC, the reapportionment is calculated as  $(\$35,254,378.12) \times (\$675,283.87 \div \$8,511,507.00) = \$2,797,003.27$ . Thus, site SA would be in the greater than \$10,000,000 AGI category, and sites SB and SC would be in the \$1,000,000 to \$10,000,000 AGI category.

The department will review a generator's request for reapportionment submitted under subsection (5) of this section, and based on information provided by the person requesting reapportionment, will determine the extent and amount of AGI to be reapportioned among his identified sites. The department will not grant reapportionment until all information reasonably necessary to do so has been provided to the department. The information which a person requesting reapportionment must provide will be specified by the department in writing to the person after the department has received his request.

(iii) The department may, on its own, initiate the reapportionment of an assessed person's AGI according to the share of total AGI contributed by each of his identified sites. To determine his reapportionment, the department will specify in writing to the person the information necessary to perform such reapportionment. The department may, if it chooses, waive payment of a generator fee, or of penalties or both until reapportionment is complete.

(3) Criteria for generator fee amount. This subsection describes the specific risk classes for generators, provisions for modifying risk classes in certain cases, and general parameters for fee amounts. The specific generator fee amounts are established in WAC 173-305-040 and are related to the risk classes and general fee parameters set forth in this subsection.

(a) Generator fee parameters. Except as provided in WAC 173-305-080 and 173-305-090, the generator fee assessed for an identified site during a calendar year will not exceed:

(i) \$150.00 for each identified site with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each identified site with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each identified site with an apportioned annual gross income in excess of ten million dollars.

(b) Generator risk class. Seven generator risk classes are established. The risk classes shall be identified as G1, G2, G3, G4, G5, G6, and G7, and are graduated with G1 representing the lowest risk and G7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities generated at an identified site. The generator risk classes are defined as follows:

(i) G1—less than 1.0 ton of DW in a calendar year;

(ii) G2—less than 0.1 ton of EHW, or 1.0 ton or more but less than 2.0 tons of DW in a calendar year;

(iii) G3—0.1 ton or more but less than 0.2 ton of EHW, or 2.0 tons or more but less than 3.5 tons of DW in a calendar year;

(iv) G4—0.2 ton or more but less than 0.35 ton of EHW, or 3.5 tons or more but less than 5.5 tons of DW in a calendar year;

(v) G5—0.35 ton or more but less than 0.55 ton of EHW, or 5.5 tons or more but less than 23.5 tons of DW in a calendar year;

(vi) G6—0.55 ton or more but less than 2.35 tons of EHW, or 23.5 tons or more of DW in a calendar year; and

(vii) G7—2.35 tons or more of EHW in a calendar year.

(c) Assigning generator risk class. The department will assign the highest applicable generator risk class to an identified site. For example, if a person generates in a calendar year 150 pounds of EHW (risk class G2) and 20 tons of DW (risk class G5), his identified site will be assigned the generator risk class G5. The department may, on a case-by-case basis, determine that an identified site poses a greater risk than is reflected by the types and annual quantities of hazardous waste generated at the site. The department may make such a determination after considering the nature of the wastes generated, the proximity of the identified site to population centers, potential for release of the hazardous waste to the air, land, or surface or ground water, and the safety of the generating and handling practices at the identified site. If the department makes such a determination, then it will assign a risk class that is one level higher than the risk class that would be assigned solely on the basis of waste types and quantities generated at the identified site. However, no risk class higher than G7 will ever be assigned. For example, an identified site might generate 1.2 tons of EHW, and thus have a generator risk class of G5. However, the department may assign the site a risk class of G6 (one class higher) because the site generates nerve gas wastes and is located over a sole source aquifer in the core of a major city. Upon reassigning a generator risk class to an identified site, the department will notify the person who utilizes or operates the site of his site's new risk class. Such notification will be in writing and will be included as part of the generator fee statement.

(4) Assessment of generator fees. This subsection describes the procedures for assessing generator fees.

(a) Generator fees will be assessed by the issuance of generator fee statements to persons whose businesses are selected for assessment pursuant to subsection (1) of this section. The department of ecology will provide a list of the businesses to be assessed to the department of revenue. The department of revenue will then prepare and send out the statements of generator fees, and will keep records on who has paid, how much was paid, who is late and, upon notice from the department of ecology, who has been exempted or whose fee has been reduced. If a second generator fee statement is necessary, due to

exemption, reduction, reapportionment, etc., the department of ecology will provide the new information to the department of revenue, which will prepare and send out the second statement. A generator fee will be considered paid only after a valid check or money order for the full fee and any accrued interest has been delivered to the department of revenue.

(b)(i) A generator fee will be owed for each calendar year that a person utilizes or operates one or more identified sites. Generator fee statements will be issued by May 31 each year for fees owed for the preceding calendar year. The due date for payment of generator fees is June 30. This due date will be changed for the following reasons:

(A) As provided in subsection (5)(d) of this section, for each person who submits a request for waiver of fee; or

(B) In the event that generator fee statements are not issued by May 31 of a given year, or for fee statements issued pursuant to (b)(ii) of this subsection, the due date will be thirty days after those generator fee statements are issued for that year.

Any person who still owes a generator fee after the applicable due date may be subject to collection and enforcement actions.

(ii)(A) If a generator submits his annual report (pursuant to WAC 173-303-220) to the department and his report is late, then his generator fee statement may be issued after May 31.

(B) The department may discover that a person is a generator, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and has not been assessed a generator fee under this chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a generator fee that is the total of the fees owed for each year, after December 31, 1982, in which he generated hazardous waste but did not pay a fee.

(c) For generator fees covering hazardous waste generation in calendar year 1983, the fees assessed shall be one-half of the full fees set forth in WAC 173-305-040. For every year thereafter, full generator fees will be assessed.

(d) The statement of generator fee provided by the department of revenue will be a form including, but not limited to, the following information:

(i) The name and address of the person responsible for paying the fee;

(ii) The amount of the generator fee assessed;

(iii) The number and class or classes of identified sites for which a fee is owed and the fee owed for each identified site (if more than one);

(iv) A copy of the fee schedule for generators (from WAC 173-305-040);

(v) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and

(vi) The name, address, and telephone number of a department contact person for responding to questions about the fee.

(5) Exemption from and reduction of fees. This subsection describes who may be exempted from a fee, whose fees may be reduced, and how exemptions or reductions will be granted or denied. To initiate a request for exemption or reduction, the person subject to a fee who wishes to make such a request must complete, sign, date, and submit to the department the form titled request for waiver of fee (available from the department).

(a) The department will grant an exemption from the generator fee to any person for any site for which he has been assessed a fee but which is not an identified site. Before granting an exemption the department may request any information reasonably necessary to determine whether the exemption should be granted including, but not limited to, information on a person's waste streams, types, and quantities. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for exemption, or in penalties for late payment of his fee.

(b) The department will reduce the generator fee for any person who can demonstrate to the department that:

(i) The annual gross income apportioned to his identified sites is incorrect based on the share of each identified site's annual gross income; or

(ii) The fee assessed for his hazardous wastes is too high based on the criteria described in subsection (3) of this section; or

(iii) The person generates hazardous waste only once a year, or less frequently, as described in WAC 173-305-040 (1)(b).

Before granting a reduction, the department may request any information reasonably necessary to determine whether or how much reduction is appropriate including, but not limited to: The share of each identified site's annual gross income; or, for adjustment based on the criteria, information on hazardous waste types, quantities, and generation rates. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for reduction, or in penalties for late payment of his fee.

(c) A request for waiver of fee must be submitted to the department by June 30 of the year in which a fee was assessed for the preceding calendar year. Failure to submit a request on time may result in collection and enforcement proceedings for failure to pay or late payment of a fee.

(d)(i) Upon receiving a completed, signed, and dated request for waiver of fee from a person, the department of ecology will temporarily waive the person's fee and will notify the department of revenue to delay collection or enforcement proceedings until the person's request has been processed. Except as provided in (e) of this subsection, no person who submits a timely request for waiver of fee shall be subject to any collection or enforcement actions while the department of ecology is

making a final decision on that person's request. The department of ecology shall notify the person and the department of revenue regarding a final decision on exemption, reduction, and/or new due date (if any).

(ii) Any person who is ultimately exempted from payment of the generator fee will not be subject to any collection or enforcement actions.

(iii) If a person's generator fee is ultimately reduced but still owing, the final due date for payment of the fee will be either June 30 of the calendar year in which the fee was assessed, or thirty days after the department's final decision, whichever is later.

(e) If the department determines that a person has knowingly submitted false information regarding a request for waiver of fee, then any temporary waiver or payment deadline extension granted to such person will be deemed ineffective. The department may take enforcement actions against such person if his fee is still owed after June 30, regardless of any temporary waiver or deadline extension that the department may initially have granted. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-030, filed 2/7/84.]

**WAC 173-305-040 Schedule of generator fees.** This section sets forth the amount of the generator fee to be assessed. Subsection (1) of this section, describes the fees for specific businesses based on the criteria established in WAC 173-305-030(3) and annual gross income categories. Subsection (2) of this section, describes the fees for nonspecific businesses based on annual gross income categories.

(1) Schedule of generator fees for specific businesses.

(a) Matrix. The matrix at the end of this subsection sets the amount of the fees for generators in particular risk classes and annual gross income ranges. Based on the annual gross income and the apportionment of income among identified sites, and on the information obtained in hazardous waste annual reports, persons will be assessed generator fees from the matrix. By finding the risk class in the left column and reading over to the apportioned annual gross income, the department will determine the fee for each identified site. A person owning or controlling more than one identified site will be assessed for the sum of the fees for all of his identified sites.

Specific Business Generator Fee Matrix

Apportioned Annual Gross Income<sup>1</sup>

Risk Class <sup>2</sup>	\$1,000,000.00 and less	\$ 1,000,000.01 to	
		\$10,000,000.00	More than \$10,000,000.00
G1	\$15.00	\$100.00	\$1,000.00
G2	\$40.00	\$300.00	\$3,000.00
G3	\$65.00	\$500.00	\$5,000.00
G4	\$90.00	\$600.00	\$6,000.00
G5	\$115.00	\$675.00	\$6,750.00
G6	\$140.00	\$725.00	\$7,250.00
G7	\$150.00	\$750.00	\$7,500.00

<sup>1</sup> For procedures for apportioning annual gross income, see WAC 173-305-030(2).

<sup>2</sup> For procedures for determining risk class, see WAC 173-305-030(3).

(b) Once a year generator fee reduction. Any person whose annual hazardous waste quantity does not exceed either 2.0 tons of dangerous waste (DW) or 0.5 tons of extremely hazardous waste (EHW), and who generates hazardous waste only once a year at an identified site will, for that identified site, owe only one-half of the full generator fee that would have been assessed solely on the basis of waste type and quantity. A person generates hazardous waste only once a year if either: All of the person's hazardous wastes are generated during one month or less of a calendar year; or, in the case of a person who is usually a small quantity generator (as described in chapter 173-303 WAC), the person's hazardous wastes exceed the small quantity generator exclusion only once during a calendar year. To the extent practical, the department will try to make the above determinations when calculating a person's generator fee prior to assessment. Any person assessed a generator fee which does not include the above reduction and who believes that such reduction is applicable, may complete and submit the request for waiver of fee form as described in WAC 173-305-030(5).

(2) Schedule of generator fees for nonspecific businesses.

(a) SIC list. A list of SIC numbers appears at the end of this subsection. Any person whose business activity has an SIC number appearing on this list will be assessed a generator fee if the department has concluded, according to WAC 173-305-030 (1)(b)(ii), that his nonspecific business utilizes or operates an identified site. The amount of the fee is established in (b) of this subsection. Procedures for apportioning annual gross income for nonspecific businesses are described in WAC 173-305-030 (2)(b).

SIC List

1000	2865	3412	3662	4600
1081	2869	3423	3670	4610
1099	2870	3429	3674	4613
1721	2873	3433	3676	4811
2400	2874	3441	3679	4910
2411	2875	3451	3691	4911
2421	2879	3452	3694	4922
2430	2891	3462	3700	4953
2434	2893	3469	3710	4959
2435	2899	3470	3711	5013
2436	2900	3471	3713	5039
2490	2911	3479	3714	5063
2491	2951	3490	3715	5084
2500	2992	3496	3720	5085
2510	2999	3498	3721	5098
2511	3000	3499	3724	5100
2512	3024	3500	3728	5160
2531	3069	3530	3731	5161
2599	3079	3531	3732	5171
2600	3111	3533	3736	5172
2611	3170	3536	3749	5191
2621	3200	3540	3764	5210
2631	3211	3541	3769	5211
2640	3293	3542	3811	5231
2641	3295	3544	3823	5261
2643	3296	3549	3825	5541
2651	3300	3551	3829	5931
2653	3312	3552	3841	5983
2654	3313	3555	3842	7212
2711	3315	3559	3861	7216
2800	3325	3573	3911	7349



## SIC List

2812	3331	3579	3993	7379
2813	3334	3582	3999	7391
3816	3339	3589	4011	7399
2819	3341	3599	4200	7500
2821	3353	3600	4210	7530
2831	3355	3610	4214	7539
2834	3356	3612	4226	7542
2841	3361	3622	4266	7692
2842	3398	3624	4400	7694
2843	3399	3639	4411	7699
2850	3400	3646	4463	8071
2851	3411	3661	4469	8911
				9511
				9621
				9641

(b) Schedule. The generator fees for nonspecific businesses are:

(i) \$150.00 for each person with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each person with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each person with an apportioned annual gross income in excess of ten million dollars. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-040, filed 2/7/84.]

**WAC 173-305-050 Coordination with the department of revenue.** The departments of ecology and revenue will frequently be transferring information and working together in the collection of generator fees. This section briefly describes some of the key areas in which the two agencies will coordinate. For the sake of clarity, they will be referred to in this section as ecology and revenue.

(1) The primary responsibilities of ecology are to set fees, determine which persons will be assessed, and establish procedures for adjusting assessments.

(2) The primary responsibility of revenue is to collect generator fees (but not facility fees).

(3) Figures on annual gross income for businesses will be obtained from revenue. Ecology will abide by whatever rules revenue may have regarding confidentiality of this information.

(4) Ecology will notify revenue promptly of any changes to generator fees for individuals or groups. Revenue will inform ecology of current amounts collected and placed in the hazardous waste control and elimination account, and of any generator fees that are overdue.

(5) Ecology will calculate any penalties or interest owed on overdue generator fees, will perform any adjustments to the generator fee owed by any individual, and will provide these figures to revenue for use in their collection proceedings. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-050, filed 2/7/84.]

**WAC 173-305-060 Facility fees.** This section describes the methods by which the department will: Select persons subject to a fee for operating a transfer, treatment, storage, or disposal (TSD) facility (subsection (1)

of this section); determine the size of each facility fee based on the types of wastes, TSD activities, waste quantities, risks, etc. (subsection (2) of this section); and, assess the fees for each facility (subsection (3) of this section). The actual schedule of facility fees appears in WAC 173-305-070. Persons who operate a combined site (as defined in WAC 173-305-020) may be subject to two fees, however there is a maximum assessment not to be exceeded for each combined site operated by a person. The procedures for assuring this maximum is not exceeded are described in WAC 173-305-080. For the purposes of WAC 173-305-060 through 173-305-080, the term "operate" means own or control; the term "manage" means, in reference to hazardous waste, transfer, treat, store, or dispose (TSD); and recycling shall be considered a form of treatment.

(1) Selection of facilities. A facility fee will be assessed to any person who operates a facility which is subject to a permit administered pursuant to chapter 173-303 WAC. Any person who operates more than one facility subject to a fee shall be responsible for paying all fees assessed to his facilities.

(2) Criteria for facility fee amount. This subsection describes the specific risk classes for facilities and the general parameters for fee amounts. The specific facility fee amounts are established in WAC 173-305-070 and are related to the risk classes and general fee parameters set forth in this subsection.

(a) Facility fee parameters. Except as provided in WAC 173-305-090, the facility fee assessed for the management of hazardous waste during a calendar year will not exceed \$7,500.00 for a facility.

(b) Facility risk class. Seven facility risk classes are established. The risk classes shall be identified as F1, F2, F3, F4, F5, F6, and F7, and are graduated with F1 representing the lowest risk and F7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities managed at a facility, and the type(s) of management at the facility. The facility risk classes are defined as follows:

(i) F1—Storage or transfer of less than 140.0 tons of DW, or less than 14.0 tons of EHW in a calendar year;

(ii) F2—Storage or transfer of 140.0 tons or more but less than 340.0 tons of DW, or 14.0 tons or more but less than 34.0 tons of EHW in a calendar year;

(iii) F3—Storage or transfer of 340.0 tons or more but less than 580.0 tons of DW, or 34.0 tons or more but less than 58.0 tons of EHW in a calendar year; or, treatment or incineration of less than 15.0 tons of DW, or less than 1.5 tons of EHW in a calendar year;

(iv) F4—Storage or transfer of 580.0 tons or more of DW, or 58.0 tons or more of EHW in a calendar year; or, treatment or incineration of 15.0 tons or more but less than 30.0 tons of DW, or 1.5 tons or more but less than 3.0 tons of EHW in a calendar year;

(v) F5—Treatment or incineration of 30.0 tons or more but less than 260.0 tons of DW, or 3.0 tons or more but less than 26.0 tons of EHW in a calendar year;

(vi) F6—Treatment or incineration of 260.0 tons or more of DW, or 26.0 tons or more of EHW in a calendar year; or, disposal of less than 10.0 tons of DW in a calendar year;

(vii) F7—Disposal of 10.0 tons or more of DW in a calendar year.

(c) Assigning facility risk class. The department will assign the highest applicable risk class to a facility. For example, if a facility stores 50 tons of DW during a calendar year (Risk Class F1) and treats 2 tons of EHW during the same calendar year (Risk Class F4), then the facility will be assigned the facility Risk Class F4. In addition, the risk class assignable to a storage or treatment facility will be increased to the next highest risk class if fifty percent or more of the facility's hazardous wastes are managed in waste piles or surface impoundments. However, no risk class higher than F7 will ever be assigned. For example, if during a calendar year a facility stores 400 tons of DW in tanks (Risk Class F3) and treats this waste in a surface impoundment (Risk Class F6), then the higher risk class, F6, will be increased by one class. Thus, the facility risk class assigned by the department to the facility would be F7.

(d) Special provision for permit by rule facilities. A facility which is operating under a permit by rule pursuant to WAC 173-303-802 will be assigned a facility risk class as described in (c) of this subsection. However, the fee assessed to a permit by rule facility will be only ten percent of the full fee specified in WAC 173-305-070 for the risk class assigned to the permit by rule facility. For example, if a permit by rule facility treats 20 tons of EHW in tanks during a calendar year, the assigned facility risk class would be F5. However, the fee assessed to this facility would be \$650.00 (10 percent of \$6,500.00, the full fee that would otherwise be assessed to a Risk Class F5 facility). This provision is only applicable to those facilities which manage hazardous wastes solely under a permit by rule.

(3) Assessment of facility fees. This subsection describes the procedures for assessing facility fees.

(a) Facility fees will be assessed, for each facility subject to a fee, to the person who operates the facility. The department will depend on the information submitted in notifications, permit applications, and annual reports to determine the person responsible for a facility fee. A facility fee will be considered paid only after a valid check or money order for the full fee and any accrued interest and/or penalties has been delivered to the department of revenue.

(b)(i) A facility fee will be owed for each calendar year during which hazardous waste is managed at the facility. The department will provide a statement of facility fee to each person operating a facility by August 1, 1984, for facilities managing hazardous waste in calendar year 1983, and by April 15 of each year thereafter. The dates facility fees are due are September 1, 1984, for facilities managing hazardous waste in calendar year 1983, and May 15 each year thereafter for facilities managing hazardous waste in the preceding calendar year. These due dates will be changed for facility fee

statements that are not issued by the applicable deadlines, or for facility fee statements issued pursuant to (b)(ii) of this subsection. The final due date in these cases will be thirty days after the department issues the facility fee statements. Any person who still owes a facility fee after the applicable due date may be subject to collection and enforcement actions.

(ii)(A) If a person submits a facility annual report (pursuant to WAC 173-303-390) to the department and his report is late, then the department may issue his facility fee statement after the applicable deadline.

(B) The department may discover that a person operates a facility, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and has not been assessed a facility fee under chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a facility fee that is the total of the fees owed for each year, after December 31, 1982, in which his facility managed hazardous waste but for which he did not pay a fee.

(c) The statement of facility fee provided by the department will be a form including, but not limited to, the following information:

- (i) The name and address of the assessed facility;
- (ii) The amount of the facility fee assessed;
- (iii) The facility class based on the criteria described in subsection (2) of this section;
- (iv) A copy of the fee schedule for all facilities as shown in WAC 173-305-070;
- (v) For facilities also subject to a generator fee, the calculations made, pursuant to WAC 173-305-080, to assure that the maximum combined fee is not exceeded;
- (vi) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and
- (vii) The name, address, and telephone number of a department contact person for responding to questions about the fee. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-060, filed 2/7/84.]

**WAC 173-305-070 Schedule of facility fees.** The facility risk classes used here refer to the criteria established in WAC 173-305-060(2). The fees are:

- (1) \$750.00 for Risk Class F1 facilities;
- (2) \$1,500.00 for Risk Class F2 facilities;
- (3) \$4,000.00 for Risk Class F3 facilities;
- (4) \$5,000.00 for Risk Class F4 facilities;
- (5) \$6,500.00 for Risk Class F5 facilities;
- (6) \$7,250.00 for Risk Class F6 facilities; and
- (7) \$7,500.00 for Risk Class F7 facilities. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-070, filed 2/7/84.]

**WAC 173-305-080 Assessments for combined sites.**

(1) Maximum fee. Any person who operates a hazardous waste transfer treatment, storage or disposal (TSD) facility which is also an identified site will be subject to both the facility fee and the generator fee. At no time, however, will the sum of both fees exceed \$7,500.00 for a combined site in one year. Any person who operates

more than one combined site will be responsible for the sum of the fees assessed to each combined site. The maximum fee (\$7,500.00) applies only to each combined site, and does not apply to the sum of the fees assessed to multiple combined sites operated by one person.

(2) Assessment. At the time that the department is calculating the fee for a combined site, it will determine the amount of the generator fee and the amount of the facility fee to be assessed. If the sum of the two fees exceeds \$7,500.00 for the combined site, then the department will recalculate the fees and provide the calculations with either the generator or facility fee statement. When required to recalculate the fees, the department will subtract either the generator or facility fee from \$7,500.00, and the difference will be the facility or generator fee. For example, if the department determines that the generator fee for a particular combined site is \$5,000.00, and that the facility fee is \$5,000.00, then the department will recalculate the generator or facility fee because the sum of the two fees (\$10,000.00) exceeds \$7,500.00. The recalculation would be \$7,500.00 - \$5,000.00 = \$2,500.00, thus the generator or facility fee assessed in the statement for the combined site would be \$2,500.00.

(3) Adjustments; supplemental fees. If at any time there is a reduction in the generator fee for a combined site (due to the department's granting of an exemption, reduction, or reapportionment under WAC 173-305-030 (5) or (2)(b)(ii) or (iii)) and the facility fee for the combined site has been recalculated in accordance with subsection (2) of this section prior to the generator fee reduction, then the department will adjust the facility fee to reflect the reduced generator fee and, if necessary, issue a supplemental facility fee statement. If a supplemental facility fee statement is issued, the due date for the supplemental fee will be thirty days after the supplemental statement is issued, whichever is later. An example of when a supplemental facility fee would be issued is as follows. The department determines that a particular combined site owes a generator fee of \$6,000.00 and a facility fee of \$6,500.00. However, because of the limit for combined sites, the department issues a facility fee statement which assesses \$1,500.00 (\$7,500.00 - \$6,000.00 = \$1,500.00). The person who operates the combined site pays the \$1,500.00 facility fee, but he requests reapportionment of his annual gross income to reduce his generator fee. The department ultimately grants his request and his new generator fee is \$600.00, which he then pays. The person who operates the combined site is now liable for payment of the full \$6,500.00 facility fee, because his combined fees do not exceed \$7,500.00 (\$600.00 + \$6,500.00 = \$7,100.00). Therefore, the department issues a supplemental facility fee statement for \$5,000.00 (\$6,500.00 - \$1,500.00 (already paid) = \$5,000.00 (unpaid balance)) which the person who operates the combined site then pays. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-080, filed 2/7/84.]

**WAC 173-305-090 Adjustment of fees and limits.** The department will adjust, by rule amendment, the fee

schedules of WAC 173-305-040 and 173-305-070, and the maximum fee limits of WAC 173-305-030(3), 173-305-060(2), and 173-305-080(1) by increasing or decreasing the amounts set forth therein by five percent on each occasion when the consumer price index of the United States Department of Labor increases or decreases by a five percent increment from the index figure as it existed on January 1, 1983. [Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-090, filed 2/7/84.]

### Chapter 173-330 WAC USED AUTOMOTIVE OIL RECYCLING SIGN REQUIREMENTS FOR AUTOMOTIVE OIL SELLERS

WAC	Purpose.
173-330-010	Purpose.
173-330-020	Applicability.
173-330-030	Definitions.
173-330-040	Responsibility to procure and post sign.
173-330-050	Sign criteria.
173-330-060	Posting and maintenance of signs.
173-330-070	Effective date and compliance.
173-330-900	Logo and sign.

**WAC 173-330-010 Purpose.** Pursuant to chapter 19.114 RCW it is recognized by the legislature that used automotive oil is a limited resource that can be collected and recycled. Further, improper disposal results in undesirable effects upon the economy and the environment.

These rules provide minimum requirements for the posting and maintaining of durable and legible signs informing the public of proper collection and disposal of used oil. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-010, filed 7/19/84.]

**WAC 173-330-020 Applicability.** All sellers as defined in WAC 173-330-030 shall conform to the provisions of this chapter. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-020, filed 7/19/84.]

**WAC 173-330-030 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Used oil" means automotive oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties.

(2) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, rerefining, reclaiming, reprocessing, or other means or to use used oil as a substitute for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all laws and rules.

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

(4) "Director" means the director of the department of ecology.

(5) "Person" means an individual, private or public corporation, partnership, cooperative, association, estate, municipality, political subdivision or governmental agency or instrumentality.

(6) "Seller" means any person selling oil within the state of Washington who sells 100 gallons or more of automotive oil per year for use off their premises. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-030, filed 7/19/84.]

**WAC 173-330-040 Responsibility to procure and post sign.** It shall be the responsibility of all sellers to procure, post and maintain a sign in accordance with the provisions within this chapter. Signs will be provided by the department. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-040, filed 7/19/84.]

**WAC 173-330-050 Sign criteria.** (1) A sign shall be constructed of white card stock - 80# or of equal or better weight and quality material and:

- a. Be commercially printed;
- b. Be size 11" x 14" or 3" x 5" shelf hangers;
- c. Have type style - Helvetica;
- d. Have type color - Green #345; and
- e. Carry the recycling logo.

(2) ALL SIGNS WILL CARRY THIS MESSAGE:

RECYCLE USED OIL

- \* Prevent water pollution
- \* Protect public health
- \* Reuse limited resources

FOR MORE INFORMATION CALL 1-800-RECYCLE

(3) The sign shall indicate how and where used oil may be properly disposed of including the location and hours of operation of conveniently located used oil collection facilities. This information may be clearly handwritten in an information block on the sign.

(4) The sign shall be substantially in the form shown in WAC 173-330-900 contained herein.

(5) Oil sellers may provide their own signs. Limited variances from the sign criteria will be allowed, subject to the department's approval. Proofs of the seller-provided signs must be submitted to the department for written approval prior to posting. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-050, filed 7/19/84.]

**WAC 173-330-060 Posting and maintenance of signs.** (1) Signs shall be posted in a location visible to the public at or near the point of sale. This location shall either be at the automotive oil display location within the store, at the cash register or on the exterior window facing.

(2) Signs shall be maintained at the required location and shall remain fully visible and legible at all times.

(3) Requests for replacement of damaged, lost or misplaced signs will be made in a timely manner not to exceed two business days. Seller-provided signs should be replaced as soon as practical but not to exceed 14

days. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-060, filed 7/19/84.]

**WAC 173-330-070 Effective date and compliance.**

(1) This chapter shall become effective October 1, 1984. Sellers shall post signs in accordance with the provisions of this chapter as of that date.

(2) Sellers shall notify the department in writing by January 1, 1985 of compliance. [Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-070, filed 7/19/84.]

**WAC 173-330-900 Logo and sign.**



**"IMPROPER DISPOSAL OF USED OIL IS A SIGNIFICANT SOURCE OF WATER POLLUTION, CONTRIBUTES TO THE OVERALL SHORTAGE OF ENERGY RESOURCES AND HAS A DETRIMENTAL IMPACT ON GENERAL PUBLIC HEALTH"**

**-CHAPTER 173-330 WAC**

RECYCLE USED OIL AT:  
 LOCATION \_\_\_\_\_  
 TIMES \_\_\_\_\_

**FOR MORE INFORMATION CALL THE WASHINGTON STATE DEPT. OF ECOLOGY LITTER CONTROL AND RECYCLING PROGRAM**

**1-800-RECYCLE**

[Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-900, filed 7/19/84.]

## Chapter 173-400 WAC

## GENERAL REGULATIONS FOR AIR POLLUTION SOURCES

## WAC

173-400-030	Definitions.
173-400-075	Emission standards for sources emitting hazardous air pollutants.
173-400-100	Registration.
173-400-115	Standards of performance for new sources.

**WAC 173-400-030 Definitions.** Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to this chapter only as defined below:

(1) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(2) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

(3) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(4) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

(5) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(6) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is a type of fugitive emission.

(7) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means excluding combustion.

(8) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(9) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

(10) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(11) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(12) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge. [Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-030, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-030, filed 5/8/79; Order DE 76-38, § 173-400-030, filed 12/21/76. Formerly WAC 18-04-030.]

**WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants.** (1) The emission standards for asbestos, benzene from fugitive emission sources, beryllium, beryllium rocket motor firing, mercury and vinyl chloride promulgated by the United States Environmental Protection Agency prior to October 1, 1984, as contained in Title 40, Code of Federal Regulations, Part 61, are by this reference adopted and incorporated herein. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or cognizant local authority.

(2) The department or cognizant local authority, at any time after the effective date of this section, may conduct source tests and require access to records, books, files and other information specific to the control, recovery or release of asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring and analytical methods for sources of asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61, as promulgated prior to October 1, 1984.

(4) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

(5) Arsenic standards.

(a) The owner or operator of any source which emits five tons or more of arsenic per year shall:

(i) Use best available technology (BAT) to control fugitive emissions of arsenic, so that community exposure standards are not exceeded outside of the property controlled by the owner or operator of the source.

As used herein BAT means the best controls and work practices available considering economic, energy and environmental impacts. The level of control that represents BAT may be different for new and existing sources within a source category because of higher costs associated with retrofitting controls on existing sources, or differences in control technology for new vs. existing sources.

(ii) Establish and operate monitoring facilities for arsenic at sites approved by the department or cognizant local authority. Such sites shall be representative of areas of potential maximum concentrations to which the public may be exposed.

(iii) Report as soon as possible but within thirty days, or in accordance with an approved work plan, to the department or cognizant local authority any exceedance of the following interim community exposure standards at any arsenic monitoring site:

Maximum 24-hour concentration - 2.0 micrograms arsenic (expressed as As) per cubic meter.

Maximum annual arithmetic mean - 0.3 micrograms arsenic (expressed as As) per cubic meter.

(iv) Maintain daily logs and records of the time and nature of activities that may release fugitive emissions of arsenic.

(v) Complete an evaluation of the cause of such exceedance within thirty days of the report of such exceedance.

(vi) Submit a work plan to the department for the identification and evaluation of fugitive arsenic emissions that is satisfactory to the department or cognizant local authority. The plan is required within thirty days after the effective date of this regulation. The work plan shall include but not be limited to an identification and evaluation of fugitive emission sources, including operating and maintenance procedures, siting of arsenic monitoring stations, a description of sampling equipment, analytical techniques, quality assurance, schedules of sampling, a program to record meteorological conditions at time of sampling, techniques used to evaluate and determine causes of exceedances, and quarterly reports of progress toward implementing the plan. For the arsenic manufacturing process as a whole, this shall include an evaluation of the feasibility of producing  $As_2O_3$  through a chemical leaching process rather than roasting. The work plan shall be implemented within one year. Subparagraphs (ii), (iii), (iv), and (v) shall not impose additional requirements on the source to the extent that such requirements are included in the work plan.

(b) The standards set forth in (a)(iii) of this subsection are intended as interim community exposure standards. As more information becomes available it is anticipated that these standards will be reviewed.

(c) During this interim period the department shall periodically review all monitoring records and plant logs to determine the need for and practicability of additional emission controls, monitoring stations or adjustment to the above standards. Whenever the cause of any exceedance can be attributed to a specific source, process, operation or work practice, the owner or operator thereof shall install or adopt corrective measures which constitute best available technology as soon as possible, to prevent a recurrence. The department or cognizant local authority shall determine if additional measures can be taken to control fugitive emissions of arsenic, and if so shall establish additional BAT requirements and a compliance program. Thereafter the department shall establish such final standards as appropriate to require,

monitor and regulate the application of BAT for fugitive emissions of arsenic.

(d) Failure of a source to comply with any provision of subsection (5) of this section or any order issued by the department or cognizant local authority pursuant to WAC 173-400-075, shall constitute cause for enforcement action per WAC 173-403-170 or 173-403-180.

(e) Nothing in these regulations shall relieve the owner or operator of any source to which any part of these regulations may apply from complying with any other rule, regulation, order, statute, or ordinance to which said source may be subject. [Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-075, filed 3/6/85. Statutory Authority: Chapter 70.94 RCW. 84-10-019 (Order DE 84-8), § 173-400-075, filed 4/26/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-075, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-075, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-075, filed 5/8/79; Order DE 76-38, § 173-400-075, filed 12/21/76. Formerly WAC 18-04-075.]

**WAC 173-400-100 Registration.** The owner or operator of each source within the following source categories shall register the source with the department unless such registration is required by the cognizant local authority:

- (1) Agricultural drying and dehydrating operations;
- (2) Asphalt plants;
- (3) Beverage can surface coating operations;
- (4) Bulk gasoline terminals;
- (5) Cattle feedlots with facilities for one thousand or more cattle;
- (6) Chemical plants;
- (7) Ferrous foundries;
- (8) Fertilizer plants;
- (9) Flexible vinyl and urethane coating and printing operations;
- (10) Grain handling, seed processing, pea and lentil processing facilities;
- (11) Metallic mineral processing plants;
- (12) Mineralogical processing plants;
- (13) Nonferrous foundries;
- (14) Other metallurgical processing plants;
- (15) Petroleum refineries;
- (16) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;
- (17) Pressure sensitive tape and label surface coating operations;
- (18) Rendering plants;
- (19) Scrap metal operations;
- (20) Synthetic organic chemical manufacturing industries;
- (21) Sulfuric acid plants;
- (22) Synthetic fiber production facilities;
- (23) Veneer dryers;
- (24) Wood waste incinerators including wigwam burners;

(25) Other incinerators designed for a capacity of one hundred pounds per hour or more;

(26) Stationary internal combustion engines rated at five hundred horse power or more;

(27) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;

(28) Any category of stationary sources to which a federal standard of performance (NSPS) applies;

(29) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);

(30) Any major source or major emissions unit.

Registration shall be on forms to be supplied by the department or local authority within the time specified thereon.

A report of closure shall be filed with the department whenever operations producing emissions are permanently ceased at any source within the above categories. [Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-100, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-100, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-100, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-100, filed 5/8/79; Order DE 76-38, § 173-400-100, filed 12/21/76. Formerly WAC 18-04-100.]

**WAC 173-400-115 Standards of performance for new sources.** Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as promulgated prior to October 1, 1984, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or cognizant local authority.

(1) Sections 60.5 and 60.6 of Title 40, Code of Federal Regulations, are not incorporated herein because they provide for preconstruction review of new sources only on request. By virtue of WAC 173-403-050, such review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new source may commence.

(2) As of October 1, 1984, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

Subpart D Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Subpart E Incinerators

Subpart F Portland cement plants

Subpart G Nitric acid plants

Subpart H Sulfuric acid plants

Subpart I Asphalt concrete plants

Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products

Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons

Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons

Subpart L Secondary lead smelters

Subpart M Brass and bronze ingot production plants

Subpart N Iron and steel plants

Subpart O Sewage treatment plants

Subpart P Primary copper smelters

Subpart Q Primary zinc smelters

Subpart R Primary lead smelters

Subpart T Phosphate fertilizer industry: Wet process phosphoric acid plants

Subpart U Phosphate fertilizer industry: Superphosphoric acid plants

Subpart V Phosphate fertilizer industry: Diammonium phosphate plants

Subpart W Phosphate fertilizer industry: Triple superphosphate plants

Subpart X Phosphate fertilizer industry: Granular triple superphosphate storage facilities

Subpart Y Coal preparation plants

Subpart Z Ferroalloy production facilities

Subpart AA Steel plants: Electric arc furnaces

Subpart CC Glass manufacturing plants

Subpart DD Grain elevators

Subpart EE Industrial surface coating: Metal furniture

Subpart GG Stationary gas turbines

Subpart HH Lime manufacturing plants

Subpart KK Lead acid batteries

Subpart LL Metallic mineral processing plants

Subpart MM Automobile and light duty truck surface coating operations

Subpart NN Phosphate rock plants

Subpart PP Ammonium sulfate manufacture

Subpart QQ Publication rotogravure printing

Subpart RR Pressure sensitive tape and label surface coating operations

Subpart SS Industrial surface coating: Large appliances

Subpart TT	Industrial surface coating: Metal coils
Subpart UU	Asphalt processing and asphalt roofing manufacture
Subpart VV	SOCMI equipment leaks (VOC)
Subpart WW	Beverage can surface coating operations
Subpart XX	Bulk gasoline terminals
Subpart FFF	Flexible vinyl and urethane coating and printing
Subpart GGG	Petroleum refineries – compressors and fugitive emission sources
Subpart HHH	Synthetic fiber production facilities

Compliance with the standards for affected facilities within these source categories shall be determined by performance tests and visual observations of opacity as set forth in the regulations adopted by reference hereby. [Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-115, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-115, filed 4/15/83; 82-16-019 (Order DE 82-20), § 173-400-115, filed 7/27/82. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-115, filed 8/20/80. Statutory Authority: RCW 43.21A-.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-115, filed 5/8/79; Order DE 76-38, § 173-400-115, filed 12/21/76. Formerly WAC 18-04-115.]

### Chapter 173-403 WAC

## IMPLEMENTATION OF REGULATIONS FOR AIR CONTAMINANT SOURCES

### WAC

173-403-030	Definitions.
173-403-050	New source review (NSR).
173-403-070	Issuance of emission reduction credits.
173-403-080	Prevention of significant deterioration (PSD).
173-403-170	Regulatory actions.

**WAC 173-403-030 Definitions.** Unless a different meaning is clearly required by context, words and phrases used in this chapter and other chapters of Title 173 WAC shall have the following meanings:

(1) "Actual emissions" as of a particular date means the average rate, in weight per unit time, with air pollution controls applied, at which the affected emission unit emitted the pollutant during the two-year period which precedes the particular date, and which is representative of normal operation. An adjustment may be made to the average annual emission rate to account for unusual circumstances during the two-year period. The department or cognizant local authority may allow or require the use of an alternative time period upon a determination that the alternative time period is more representative of normal operation than is the immediately-preceding two years. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

The department or cognizant local authority may presume that source-specific allowable emissions, which incorporate limits on hours of operation or production rate, are equivalent to the actual emissions of the unit.

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(5) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is limited in production rate or hours of operation, or both, by an applicable regulatory order) and the most stringent of (a), (b), or (c) of this subsection. Physical and process limitations must be considered in determining maximum rated capacity.

(a) Standards as set forth in 40 CFR Part 60 and Part 61, if applicable to the source; or

(b) The applicable state implementation plan emission limitation; or

(c) The emission rate specified by an applicable regulatory order.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant or multiple air contaminants in the ambient air which shall not be exceeded.

(8) "Best available control technology (BACT)" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the emissions allowed by any applicable



standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

(9) "Best available retrofit technology (BART)" means any emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by source. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required. Such standards shall, to the degree possible, set forth the emission reductions achieved and provide for compliance by prescribing appropriate conditions in a regulatory order.

(10) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit or units in exchange for a decrease in emissions from another emissions unit or units, pursuant to RCW 70.94.155.

(11) "Class I area" means any federal, state, or Indian land which is classified or reclassified Class I.

(12) "Cognizant local authority" means an air pollution control authority activated pursuant to chapter 70.94 RCW that has jurisdiction over the subject source.

(13) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(14) "Department" means the Washington state department of ecology.

(15) "Director" means director of the Washington state department of ecology or duly authorized representative.

(16) "Dispersion technique" means any one of the following:

(a) A stack whose height exceeds good engineering practice; or

(b) An intermittent or supplemental control of pollutants varying with atmospheric conditions, including any method which attempts to affect the concentration of a pollutant according to atmospheric conditions and the manipulation of source process parameters or selective handling of exhaust gas streams; or

(c) Use of a fan or reheater to obtain a less stringent emission limitation.

(17) "Emission" means a release of air contaminants into the ambient air.

(18) "Emission reduction credit (ERC)" means a credit granted to a source for a voluntary reduction in actual emissions.

(19) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or operating conditions that result in control of air pollution emission.

(20) "Emissions unit" means any equipment, device, process, or activity that produces and emits to the outside air, or that may produce and emit to the outside air, any contaminant regulated by state or federal law.

(21) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(22) "Good engineering practice (GEP)" refers to the height of a stack and means one of the following, whichever is the greatest:

(a) Sixty-five meters; or

(b) Height determined by formula. For stacks in existence on or before January 12, 1979, formula height is two and one-half times the height of any nearby structure. For stacks constructed after January 12, 1979, formula height is the height of any nearby structure plus one and one-half times the height or width of said structure, whichever is lesser. The height of the nearby structure is measured from ground level at the base of the stack. "Nearby," as used in this paragraph, means that distance up to five times the lesser of the height or width dimension of said structure, but no greater than .8 kilometer; or

(c) Height determined by physical demonstration of need to prevent excessive concentrations of a pollutant due to downwash, wakes, or eddies created by structures or terrain obstacles. To make such a demonstration it is required that maximum concentrations caused by the source's emissions from its proposed stack height, without consideration of nearby structures or terrain obstacles, will increase at least forty percent when the effects of the structures or terrain obstacles are considered. This difference in concentrations must be shown either by a fluid model study conducted in accordance with guidelines published by the environmental protection agency or by a field study which has been approved by the department or cognizant local authority. Such a study may

be approved only after public involvement pursuant to WAC 173-403-110.

(23) "In operation" means engaged in activity related to the primary design function of the source.

(24) "Integral vista" means a view perceived from within the Class I area of a specific landmark or panorama located outside the boundary of the Class I area.

(25) "Land manager" means the secretary of the federal or head of the state department or Indian governing body with authority over the Class I area.

(26) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(27) "Major emissions unit" means any emissions unit which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(28) "Major modification" means (a), (b), or (c) of this subsection, whichever is the most stringent:

(a) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause a net significant emissions increase for any pollutant regulated by state or federal law, except that a net significant emissions increase for any one of the following reasons shall not, in itself, cause the change to be a major modification:

(i) Use of an alternative fuel or raw material by reason of an order under Sections 2 (a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act; or

(ii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act; or

(iii) Use of an alternative fuel or raw material that the source is capable of accommodating and was capable of accommodating prior to December 21, 1976, unless such change in fuel or raw material use is prohibited by a regulatory order; or

(iv) Use of an alternative fuel at a steam-generating unit to the extent that the fuel is generated from municipal solid waste; or

(v) An increase in the hours of operation or the production rate unless such increases are prohibited by a regulatory order.

(b) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause the allowable emissions to be exceeded.

(c) Any reconstruction of a major source, or any reconstruction of a major emissions unit that is located in an area that is not in attainment for the pollutant under consideration or located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, for which reconstruction the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost of a comparable entirely new source or emissions unit.

(29) "Major source" means any source which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(30) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61, as promulgated prior to January 1, 1983.

(31) "Natural conditions" include naturally occurring phenomenon that reduce visibility as measured in terms of visual range, contrast, or coloration.

(32) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions of a pollutant resulting from a physical change or change in method of operation of a specific emission unit in a source; and

(b) Any other increases or decreases in actual emissions of the same pollutant from the source that are contemporaneous with the change: *Provided*, That

(i) Said other increases or decreases are contemporaneous with the change only if they occur at the same time or within one year prior to the change, or if said decrease(s) has been documented by an emission reduction credit; and

(ii) Said other decreases in emissions are creditable only to the extent that the old level of actual emissions or the old level of allowable emissions, whichever is the lesser, exceeds the new level of allowable emissions; and

(iii) Said other decreases in emissions are not creditable if the specific emissions unit is a major emissions unit and is located (A) in an area that is not in attainment for the pollutant or (B) in an area that is not in attainment for ozone and the pollutant is volatile organic compounds; and

(iv) The determination of net emissions increase shall be valid only after a regulatory order has been issued which establishes that the new emissions from every emissions unit involved in the determination are equal to

the new allowable emissions expressed as weight of the pollutant per unit time.

(33) "New source" means a source which commences construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emission standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification shall be construed as construction or installation or establishment of a new source.

(34) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60, as promulgated prior to January 1, 1983.

(35) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(36) "Notice of construction" means a written application to permit construction of a new source or modification of an existing source.

(37) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(38) "Particulate matter" or "particulates" means small discrete masses of liquid or solid, exclusive of uncombined water.

(39) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(40) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(41) "Prevention of significant deterioration (PSD)" means the federal regulations set forth in 40 CFR Subpart 52.21 as promulgated prior to July 1, 1982, and as modified by WAC 173-403-080.

(42) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(43) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public involvement per WAC 173-403-110.

(44) "Regulatory order" means an order issued by the department or cognizant local authority to an air contaminant source which approves a notice of construction

and/or limits emissions and/or establishes other air pollution control requirements.

(45) "Significant emission" means a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year	Pounds/Day	Pounds/Hour
Carbon monoxide	100		
Nitrogen oxides	40		
Sulfur dioxide	40	800	80
Volatile organic compounds	40		
Particulates	25	500	50
Lead	.6		
Total reduced sulfur (as H <sub>2</sub> S)	10		
Total fluoride	3		

(46) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

(47) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.

(48) "Source category" means all sources of the same type or classification.

(49) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760mm (29.92 inches) of mercury.

(50) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide.

(51) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(52) "Visibility impairment of a Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(53) "Volatile organic compound" means a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 millimeters of mercury at 20 degrees C, except the following excluded compounds: Methane, ethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, trichlorotrifluoroethane, dichlorotetrafluoroethane, chloropentafluoroethane, methylene chloride, and 1,1,1-trichloroethane (methyl chloroform). [Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-030, filed 8/26/83; 83-09-013 (Order DE

83-12), § 173-403-030, filed 4/11/83. Formerly WAC 18-60-020.]

**WAC 173-403-050 New source review (NSR). (1) Applicability.**

(a) A notice of construction must be filed with the department or cognizant local authority prior to the construction, installation, or establishment of a new source, if the source is in a category that is required to submit to new source review per applicable regulation of the said authority.

(b) The department or cognizant local authority may require a notice of construction prior to the construction, installation, or establishment of any new source, other than a single family or duplex dwelling.

(c) The notice of construction and new source review shall apply only to the emission unit(s) affected and the contaminants involved.

(2) **Additional information.** Within thirty days of receipt of a notice of construction, the department or cognizant local authority may require the submission of additional plans, specifications, and such other information as deemed necessary for the review of the proposed new or modified source.

(3) **Requirements for nonattainment areas.** If the proposed new source is located in an area that is not in attainment for any air contaminant that would be emitted by the source, or if the source is located in an area that is not in attainment for ozone and the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new source will be in accord with applicable federal and state rules and regulations, including New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

(b) The new source will use Best Available Control Technology (BACT) for emissions control.

(c) If the new source is a major source or the proposed change is a major modification, it will comply with Lowest Achievable Emission Rate (LAER) for emissions of the contaminants for which nonattainment has been designated.

(d) If the source is a major source and is located in an area that is not in attainment for carbon monoxide or ozone and the source will emit carbon monoxide or volatile organic compounds, it is required that there be an analysis of alternative sites, sizes, and production processes and environmental control techniques for the proposed new source which demonstrates that benefits of the proposed new source significantly outweigh the environmental and social costs imposed as a result of its location, construction, and modification. This analysis is the responsibility of the applicant, who may use an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act as a source of information for this analysis.

(e) The proposed new source will not violate the requirements for reasonable further progress established by the state implementation plan. If the source is a major source or the project is a major modification, the total new actual emissions from all sources existing at the time of application for notice of construction plus proposed allowable emissions for the new source, of the contaminants for which nonattainment has been designated, shall be no greater than the total actual emissions from existing sources, except that (i) the department or cognizant local authority may require that new total actual emissions be reduced to less than existing total actual emissions, as necessary to achieve air quality attainment goals stated in an approved plan of attainment, and except that (ii) the emissions from the proposed new source may be approved without an offsetting reduction from existing sources if an adequate emissions growth allowance is included in an approved plan of attainment. The above requirements must be met by reducing actual emissions from existing source(s). Arrangements for such offsetting reduction(s) of actual emissions must be made by the owner or operator of the proposed new source. The proposed new source may be constructed only after the issuance of a regulatory order(s) to the proposed new source and to all the source(s) that provided the offset. The said orders shall include new allowable emissions limits for all the affected sources.

(f) If the source is a major source or the project is a major modification, the owner or operator shall demonstrate that all major sources owned or operated by such person (or persons under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the Federal Clean Air Act.

(4) **Requirements for attainment areas.** If the proposed new source is located in an area that is in attainment for all contaminants that would be emitted by the source and the source is located in an ozone attainment area if the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new source will be in accord with applicable federal and state regulations, including New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

(b) The project will use Best Available Control Technology (BACT) for emissions control.

(c) The allowable emissions from the proposed new facility will not delay the attainment date for an area not in attainment. This requirement will be considered to be met if the impact at any location within a nonattainment area does not exceed the following levels:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
TSP	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	-	-
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	25 ug/m <sup>3</sup>	30 ug/m <sup>3</sup>

(d) The proposed new source will not cause a violation of any ambient air quality standard.

(e) An offsetting emissions reduction, that satisfies the requirements of WAC 173-403-050 (3)(e), may be used to satisfy the requirements of WAC 173-403-050 (4)(c) and (d) and (9) if required.

(5) **Preliminary determination.** Within thirty days after receipt of all information required, the department or cognizant local authority shall:

(a) Make preliminary determinations on the matters set forth in subsection (3), (4), or (9) of this section whichever is applicable; and

(b) Initiate compliance with the provisions of WAC 173-403-110 relating to public notice and public comment, as applicable.

(6) **Final determination.** If, after review of all information received including public comment, the department or cognizant local authority finds that all the conditions in subsection (3), (4), or (9) of this section are satisfied, whichever is applicable, the authority will issue a regulatory order to approve the notice of construction for the proposed new source or modification.

(7) **Portable sources.** For portable sources which locate temporarily at particular sites, the owner or operator shall be allowed to operate at the temporary location without filing a notice of construction, providing that the owner or operator notifies the department or cognizant local authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable the department or cognizant local authority to determine that the operation will comply with the emission standards for a new source, will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time, but in no case longer than one year, and the department or cognizant local authority may set specific conditions for operation during said period. A temporary source shall be required to comply with all applicable emission standards.

(8) **Commencement of construction.** The owner or operator of the new source shall not commence construction until the applicable notice of construction has been approved.

(9) **Visibility requirements.** Any new major source or new major modification shall evaluate the visibility impairment per 40 CFR 52.21(e) for all Class I areas in Washington and neighboring states. The evaluation shall comply with the following:

(a) When the land manager has officially designated visibility to be an important attribute, the owner or operator of the new source shall demonstrate that the potential emissions in combination with emissions from all other sources permitted after January 1, 1982, shall not cause or contribute to a significant visibility impairment.

(b) The department shall upon receipt of an application for a notice of construction notify the land managers of potentially affected areas. Notification shall be in writing and include a copy of all information relevant to

the application including the information developed for this section. This information shall be transmitted to the land manager within thirty days of receipt of the application and at least sixty days prior to public hearing on the application for permit to construct.

(c) All evaluations of visibility impairment required under this section shall use the models on file with the department or equivalent models approved by the department or EPA.

(d) The results of the evaluation shall be sent to the land manager of the affected areas for their review and recommendation. The review shall consider the degree of visibility impairment, duration, geographic extent, frequency, and time. The recommendation of the land managers concerning adverse impact on visibility shall be sent to the department within thirty days of receipt of the evaluation results.

(e) Should the department concur with the recommendation of the land manager then the notice of construction shall be approved or disapproved according to the recommendation. The department may find the review of a land manager inadequate and make its own determination. A finding of significant visibility impairment shall require a disapproval of the notice of construction, unless sufficient mitigating measures are developed.

(f) The department or land managers may demonstrate that the new source would cause impairment of an integral vista officially designated at least six months before the new source submitted a complete application. The protection of an integral vista by controls on the source shall consider the time necessary for compliance, the energy and nonair quality environmental effects of compliance and the productive life of the source.

(g) The department may require visibility monitoring at the site of the new source or potentially affected areas as a part of the applicable regulatory order. The monitoring period may be before or after construction or both. [Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-050, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060. 84-21-098 (Order 84-27), § 173-403-050, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-050, filed 8/26/83; 83-09-013 (Order DE 83-12), § 173-403-050, filed 4/11/83.]

**WAC 173-403-070 Issuance of emission reduction credits.** (1) **Applicability.** The owner or operator of any source may apply to the department or cognizant local authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) **Time of application.** The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished, except that within one hundred eighty days after the adoption of this regulation, an ERC application may be

made for an emission reduction which took place between April 1, 1980, and the date of adoption of this regulation.

(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the department or cognizant local authority.

(a) The quantity of emissions in the ERC shall be less than the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown or equipment, specified control practices, etc.

(c) The ERC must be large enough so as to be readily quantifiable in relation to the source strength of the emissions unit(s) involved, but in no case shall the ERC be for less than one ton per year.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-403-050 (3)(e), nor as part of a bubble transaction under WAC 173-403-060, nor to satisfy NSPS, BACT, or LAER.

(e) Concurrently with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order that establishes total allowable emissions from the source of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time. The new allowable emissions shall be considered RACT.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, the department or cognizant local authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, the department or cognizant local authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the department or cognizant local authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the proposed new allowable emission rate(s) claimed in the ERC application, expressed as weight of pollutant per unit time. The regulatory order or equivalent document must include all requirements that are necessary to provide such assurance. If the ERC depends in whole or in part upon the shutdown or equipment, the regulatory order or equivalent document must prohibit the startup of the affected equipment; and,

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the nonattainment area involved, if applicable, and the person to whom the certificate is issued. [Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-070, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060. 84-21-098 (Order 84-27), § 173-403-070, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-070, filed 8/26/83.]

**WAC 173-403-080 Prevention of significant deterioration (PSD).** Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on July 1, 1981, are herein incorporated by reference with the following additions and modifications:

(1) Construction of "administrator." In 40 CFR 52.21 (b)(17), federally enforceable, (f)(1)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l)(2), air quality models, and (t), disputed permits or redesignations, the word "administrator" shall be construed in its original meaning. In all other cases, the word "administrator" shall be construed to mean the director of the department.

(2) Contemporaneous. Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs at the same time or within one year prior to the change, or if a decrease has been documented by an emission reduction credit."

(3) Public participation. Subpart 40 CFR 51.24(q) public participation, as in effect July 1, 1981, is hereby incorporated by reference, with the following modifications:

(a) In 40 CFR 51.24(q)(2)(iv), the word "administrator" shall be construed in its original meaning.

(b) In 40 CFR 51.24(q)(l), the phrase "specified time period" shall mean thirty days.

(4) List of Class I areas. The following areas are the Class I areas in Washington state as of January 1, 1983:

Mount Rainier National Park  
North Cascade National Park  
Olympic National Park  
Alpine Lakes Wilderness Area  
Glacier Peak Wilderness Area  
Goat Rocks Wilderness Area  
Mount Adams Wilderness Area  
Pasayten Wilderness Area.

[Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-080, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060. 84-21-098 (Order 84-27), § 173-403-080, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-080, filed 8/26/83.]

**WAC 173-403-170 Regulatory actions.** The department may take any of the following regulatory actions to enforce this chapter.

(1) **Notice of violation.** Whenever the department has reason to believe that any provision of this chapter has been violated, it may cause written notice to be served on the alleged violator or violators. The notice shall specify the provision of this chapter alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time.

(2) **Civil penalty.** Whenever any person violates any of the provisions of this chapter, he shall be subject to a penalty in the form of a fine in an amount not to exceed one thousand dollars per day for each violation. Each such violation shall be separate and distinct and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty shall be imposed by a notice in writing from the director or designee of the director or authorized person in the cognizant local authority describing the violation with reasonable particularity. Further, the person is subject to a fine of up to five thousand dollars to be levied by the director if requested by the board of a local authority or if the director determines that the penalty is needed for effective enforcement of this chapter. The maximum daily fine imposed for violation of standards by a specific emissions unit is five thousand dollars. Upon written application submitted to the department within fifteen days after notice has been received the director may remit or mitigate the penalty upon such terms as the director deems proper and when deemed in the best interest to carry out the purpose of this chapter. The mitigation shall not affect or reduce the penalty imposed by the local board. Notwithstanding any other provisions of this subsection, the maximum daily fine that may be imposed upon any emissions unit for violation of any opacity standard is four hundred dollars.

(3) **Assurance of discontinuance.** The director or authorized person in the cognizant local authority may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) **Restraining orders, injunctions.** Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) **Emergency episodes.** The department may issue such orders as authorized by chapter 194, Laws of 1971

ex. sess., whenever an air pollution episode forecast is declared.

(6) **Compliance orders.** The department may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated. [Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060. 84-21-098 (Order 84-27), § 173-403-170, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-170, filed 4/11/83.]

## Chapter 173-405 WAC KRAFT PULPING MILLS

### WAC

173-405-021 Definitions.

173-405-041 Emission requirements of prior jurisdictions.

**WAC 173-405-021 Definitions.** Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to kraft pulping mills as defined below.

(1) "Kraft mill" means any manufacturing facility which uses an alkaline solution containing sodium hydroxide and/or sodium sulfide, and any other chemical pulping facility, except those covered by chapter 173-410 WAC, to produce pulp and/or paper products from wood fibers. For the purposes of this regulation "kraft mill" is equivalent to "source."

(2) "New source" means a source which commences construction after September 24, 1976. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

(3) "Noncondensibles" means gases and vapors from the digestion and evaporation processes of a mill that are not condensed with the equipment used in those processes.

(4) "Recovery furnace stack" means the stack from which the products of combustion from the recovery furnace are emitted to the ambient air.

(5) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide. [Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-405-021, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-021, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), §

173-405-021, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-021, filed 3/21/80; Order DE 76-35, § 173-405-021, filed 12/28/76. Formerly WAC 18-36-021.]

**WAC 173-405-041 Emission requirements of prior jurisdictions.** Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction. [Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-405-041, filed 3/6/85.]

### Chapter 173-410 WAC SULFITE PULPING MILLS

#### WAC

173-410-021 Definitions.  
173-410-042 Emission requirements of prior jurisdictions.

**WAC 173-410-021 Definitions.** Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to sulfite pulping mills as defined below.

(1) "Acid plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery system.

(2) "Average daily emission" means total weight of an air contaminant emitted in each month, divided by the number of days of production that month.

(3) "Average daily production" means air dried tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

(4) "Blow system" includes the storage chest, tank or pit to which the digester pulp is discharged following the cook.

(5) "New source" means a source which commences construction after January 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

(6) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, storage facilities, and emission control equipment associated with the recovery cycle.

(7) "Sulfite pulping mill" means any manufacturing facility which uses a cooking liquor consisting of sulfuric acid, a sulfite or bisulfite salt alone or in any combination, with or without additional mechanical refining or delignification to produce pulp, pulp products or cellulose from wood fibers. For the purposes of this regulation "sulfite pulping mill" is equivalent to "source."

(8) "Total reduced sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present, expressed as hydrogen sulfide. [Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-410-021, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-410-021, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-021, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-050 (Order DE 80-8), § 173-410-021, filed 3/21/80; Order DE 76-36, § 173-410-021, filed 12/28/76. Formerly WAC 18-38-021.]

**WAC 173-410-042 Emission requirements of prior jurisdictions.** Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction. [Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-410-042, filed 3/6/85.]

### Chapter 173-415 WAC PRIMARY ALUMINUM PLANTS

#### WAC

173-415-020 Definitions.  
173-415-041 Emission requirements of prior jurisdictions.

**WAC 173-415-020 Definitions.** Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to primary aluminum mills as defined below.

(1) "Fluorides" means compounds of the element fluorine.

(2) "Forage" means grasses, pasture and other vegetation that is normally consumed or is intended to be consumed by livestock.

(3) "New source" means a source which commences construction after June 17, 1970. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.



(4) "Primary aluminum plant" means a plant which produces aluminum metal from aluminum oxide (alumina). For the purposes of this regulation "primary aluminum plant" is equivalent to "source."

(5) "Potline primary emission control system" means the equipment and procedures designed to collect and remove contaminants from the exhaust gases which are captured at the pot. [Statutory Authority: RCW 70.94-.331, 85-06-048 (Order 84-50), § 173-415-020, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70-.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-020, filed 4/15/83. Statutory Authority: RCW 70.94-.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-020, filed 8/14/80. Formerly WAC 18-52-021.]

**WAC 173-415-041 Emission requirements of prior jurisdictions.** Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction. [Statutory Authority: RCW 70.94.331, 85-06-048 (Order 84-50), § 173-415-041, filed 3/6/85.]

**Chapter 173-422 WAC**

**MOTOR VEHICLE EMISSION INSPECTION**

WAC  
173-422-050 Emission contributing areas.

**WAC 173-422-050 Emission contributing areas.** Emission contributing areas within which the motor vehicle emission inspection program applies are designated by the following United States Postal Service ZIP codes as of the effective dates set forth below:

(1) Puget Sound Region (effective January 1, 1982)

- |       |   |
|-------|---|
| 98004 | 98039                                       |
| 98005 | 98040                                       |
| 98006 | 98041                                       |
| 98007 | 98043                                       |
| 98008 | 98046                                       |
| 98009 | 98052                                       |
| 98011 | 98053                                       |
| 98012 | 98055                                       |
| 98020 | 98056                                       |
| 98021 | 98057                                       |
| 98027 | 98062                                       |
| 98028 | 98063                                       |
| 98033 | 98072                                       |
| 98034 | 98073                                       |
| 98036 | 98083                                       |
| 98037 | 98101 thru 98199,<br>inclusive except 98110 |

(2) Spokane Region (effective July 1, 1985)

- |       |       |
|-------|-------|
| 99201 | 99207 |
| 99202 | 99208 |
| 99203 | 99212 |
| 99204 | 99216 |
| 99205 | 99218 |
| 99206 |       |

[Statutory Authority: RCW 70.120.120, 84-09-087 (Order DE 84-7), § 173-422-050, filed 4/18/84. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94-.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-050, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-050, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-050, filed 2/28/80.]

**Chapter 173-501 WAC**

**INSTREAM RESOURCES PROTECTION PROGRAM--NOOKSACK WATER RESOURCE INVENTORY AREA (WRIA) 1**

- WAC
- |             |  |
|-------------|--|
| 173-501-010 | General provision.   |
| 173-501-020 | Purpose.   |
| 173-501-030 | Establishment of instream flows.                                       |
| 173-501-040 | Surface water source limitations to further consumptive appropriation. |
| 173-501-050 | Lakes.   |
| 173-501-060 | Ground water.  |
| 173-501-070 | Exemptions.  |
| 173-501-080 | Policy statement for future permitting actions.                        |
| 173-501-090 | Enforcement.   |
| 173-501-100 | Regulation review.   |

**WAC 173-501-010 General provision.** These rules apply to waters within the Nooksack water resource inventory area (WRIA 1), as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (Minimum water flows and levels), and in accordance with chapter 173-500 WAC (Water resources management program). [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2), 85-24-073 (Order 85-19), § 173-501-010, filed 12/4/85.]

**WAC 173-501-020 Purpose.** Chapter 90.54 RCW (Water Resources Act of 1971) requires that utilization and management of waters of the state be guided by a number of fundamentals, including:

Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial. (RCW 90.54.020(1))

The quality of the natural environment shall be protected and, where possible, enhanced as follows:

Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes

**Instream Resources Protection Program--Nooksack Water Resource Inventory Area (WRIA) 173-501-030**

and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(a))

Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(b))

The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nooksack water resource inventory area with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values, as well as recreation and water quality.

In administering and enforcing this regulation, the department's actions shall be consistent with the provisions of chapter 90.54 RCW. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-020, filed 12/4/85.]

**WAC 173-501-030 Establishment of instream flows.** (1) Stream management units and associated control stations are established as follows:

**Stream Management Unit Information**

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Anderson Creek Gage # WDOE-2109-00	1.4 Section 19 T. 39 N., R. 4 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Bells Creek Gage # WDOE-2073-00	0.5 Section 21 T. 39 N., R. 5 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Bertrand Creek Gage # WDOE-2124-00	1.0 Section 26 T. 40 N., R. 2 E.	From U.S./Canada border to confluence with Nooksack River, including all tributaries.
California Creek Gage # WDOE-2134-00	3.0 Section 21 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
Canyon Creek Gage # WDOE-2045-00	0.2 Section 35 T. 40 N., R. 6 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Canyon Creek at Kulshan Gage # 12-2085-00	0.2 Section 27 T. 39 N., R. 5 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Cornell Creek Gage # WDOE-2057-00	0.6 Section 1 T. 39 N., R. 6 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Dakota Creek near Blaine Gage # 12-2140-00	3.5 Section 9 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
Deer Creek Gage # WDOE-2130-50	0.2 Section 28 T. 39 N., R. 2 E.	From the confluence with Tenmile Creek to headwaters, including all tributaries.
Fishtrap Creek at Lynden Gage # 12-2120-00	6.9 Section 16 T. 40 N., R. 3 E.	From U.S./Canada border to confluence with Nooksack River, including all tributaries.
Gallop Creek Gage # WDOE-2056-00	0.3 Section 7 T. 39 N., R. 7 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Hutchinson Creek Gage # WDOE-2101-00	1.8 Section 36 T. 38 N., R. 5 E.	From confluence with South Fork Nooksack River to headwaters, including all tributaries.
Johnson Creek Gage # WDOE-2149-00	0.5 Section 35 T. 41 N., R. 4 E.	From U.S./Canada border to headwaters including all tributaries.
Kendall Creek Gage # 12-2065-00	0.1 Section 3 T. 39 N., R. 5 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Maple Creek Gage # WDOE-2059-00	0.8 Section 30 T. 40 N., R. 6 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Nooksack River (at Deming) 12-2105-00	36.6 Section 31 T. 39 N., R. 5 E.	From confluence with Smith Creek to confluence of North Fork and Middle Fork Nooksack Rivers.
Nooksack River (at Ferndale) 12-2131-00	5.8 Section 29 T. 39 N., R. 2 E.	From influence of mean annual high tide at low instream flow levels to confluence with, and including, Smith Creek.
Nooksack River (Middle Fork) 12-2080-00	5.0 Section 13 T. 38 N., R. 5 E.	From confluence with North Fork to headwaters.
Nooksack River (North Fork) 12-2072-00	44.1 Section 10 T. 39 N., R. 5 E.	From confluence with Middle Fork to headwaters.
Nooksack River (South Fork) 12-2090-00	5.0 Section 19 T. 38 N., R. 5 E.	From confluence with Nooksack River (mainstem) to headwaters.
Porter Creek Gage # WDOE-2084-00	0.7 Section 11 T. 38 N., R. 5 E.	From the confluence with M. Fk. Nooksack R. to headwaters, including all tributaries.
Racehorse Creek Gage # WDOE-2071-00	1.5 Section 11 T. 39 N., R. 5 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Saar Creek Gage # 12-2155-00	0.2 Section 31 T. 41 N., R. 5 E.	From U.S./Canada border to headwaters, including all tributaries.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Silver Creek Gage # WDOE-2132-00	2.0 Section 4 T. 38 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Skookum Creek near Wickersham Gage # 12-2095-00	0.1 Section 27 T. 37 N., R. 5 E.	From confluence with South Fork Nooksack River to headwaters, including all tributaries.
Smith Creek Gage # WDOE-2111-00	0.8 Section 22 T. 39 N., R. 4 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Sumas River near Sumas Gage # 12-2145-00	2.1 Section 2 T. 41 N., R. 4 E.	From U.S./Canada border to headwaters including all tributaries.
Tenmile Creek at Laurel Gage # 12-2129-00	4.4 Section 13 T. 39 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Terrell Creek Gage # WDOE-2133-00	2.2 Section 31 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
Wiser Lake Creek Gage # WDOE-2126-00	0.7 Section 2 T. 39 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.

Month	Day	WDOE-2045-00 Canyon Creek	WDOE-2085-00 Canyon (Lk) Cr.	WDOE-2057-00 Cornell Creek
Jan.	1	150	50	20
	15	150	50	20
Feb.	1	150	50	20
	15	150	50	20
Mar.	1	150	50	20
	15	150	50	20
Apr.	1	150	50	20
	15	150	50	20
May	1	150	50	20
	15	150	50	20
Jun.	1	150	50	15
	15	150	50	9
Jul.	1	150*	50*	5*
	15	80*	30*	3*
Aug.	1	40*	15*	3*
	15	40*	10*	3*
Sep.	1	40*	10*	3*
	15	40*	10*	3*
Oct.	1	55*	20*	5*
	15	80*	23*	10*
Nov.	1	90*	27*	20*
	15	110	32	20
Dec.	1	130	40	20
	15	150	43	20

(2) Instream flows are established for the stream management units in WAC 173-501-030(1) as follows:

**Instream Flows in the Nooksack WRIA**  
(Instantaneous cubic feet per second)

Month	Day	WDOE-2109-00 Anderson Cr.	WDOE-2073-00 Bells Creek	WDOE-2124-00 Bertrand Cr.	WDOE-2134-00 California Cr.
Jan.	1	50	4*	90*	40*
	15	50	4*	90*	40*
Feb.	1	50	4*	90*	40*
	15	50	3*	90*	40*
Mar.	1	50	2*	90*	40*
	15	50	2*	90*	25*
Apr.	1	40	3*	80*	18*
	15	31	4*	60*	13*
May	1	25*	5*	50*	9*
	15	20*	6*	40*	6*
Jun.	1	16*	6*	33*	4*
	15	13*	6*	25*	3*
Jul.	1	10*	3*	21*	2*
	15	8*	2*	17*	2*
Aug.	1	6*	1*	13*	2*
	15	6*	1*	13*	2*
Sep.	1	6*	1*	13*	2*
	15	6*	1*	13*	2*
Oct.	1	8*	1*	13*	2*
	15	11*	2*	20*	2*
Nov.	1	15*	3*	30*	4*
	15	20	4*	40*	7*
Dec.	1	30	4*	60*	15*
	15	50	4*	90*	40*

Month	Day	12-2140-00 Dakota Creek	WDOE-2130-50 Deer Creek	12-2120-00 Fishtrap Cr.
Jan.	1	60*	10*	55*
	15	60*	10*	55*
Feb.	1	60*	10*	55*
	15	60*	10*	55*
Mar.	1	60*	10*	55*
	15	40*	10*	55*
Apr.	1	30*	8*	45*
	15	20*	6*	35*
May	1	15*	5*	30*
	15	10*	4*	25*
Jun.	1	7*	3*	20*
	15	5*	2*	15*
Jul.	1	4*	2*	12*
	15	3*	1*	10*
Aug.	1	3*	1*	8*
	15	3*	1*	8*
Sep.	1	3*	1*	8*
	15	3*	1*	8*
Oct.	1	3*	2*	18*
	15	4*	2*	20*
Nov.	1	5*	3*	30*
	15	10*	4*	40*
Dec.	1	20*	5*	55*
	15	60*	7*	55*

Month	Day	WDOE-2056-00 Gallop Creek	WDOE-2101-00 Hutchinson Creek	WDOE-2149-00 Johnson Creek	12-2065-00 Kendall Cr.
Jan.	1	12	60	60*	10*
	15	12	60	60*	10*
Feb.	1	12	60	60*	10*
	15	12	60	60*	10*
Mar.	1	12	60	60*	10*
	15	12	60	60*	10*
Apr.	1	12	60	60*	10*
	15	12	60	45*	10*

\*Denotes closure period. No further consumptive rights issued for use during this time.

**Instream Resources Protection Program—Nooksack Water Resource Inventory Area (WRIA) 173-501-030**

Month	Day	WDOE-2056-00 Gallop Creek	WDOE-2101-00 Hutchinson Creek	WDOE-2149-00 Johnson Creek	12-2065-00 Kendall Cr.
May	1	12	60	35*	10*
	15	12	60	25*	10*
Jun.	1	12	60	20*	10*
	15	12	60	15*	10*
Jul.	1	12*	60*	12*	10*
	15	8*	40*	9*	6*
Aug.	1	6*	25*	9*	4*
	15	5*	15*	9*	3*
Sep.	1	5*	15*	9*	3*
	15	5*	15*	9*	3*
Oct.	1	5*	25*	9*	5*
	15	5*	30*	9*	6*
Nov.	1	8*	35*	13*	7*
	15	12	40	20*	8*
Dec.	1	12	50	30*	9*
	15	12	60	60*	10*

Month	Day	WDOE-2059-00 Maple Creek	12-2105-00 Nooksack R. (at Deming)	12-2131-00 Nooksack R. (at Ferndale)
Jan.	1	20	2050	2900
	15	20	2050	2900
Feb.	1	20	2150	2900
	15	30	2350	2900
Mar.	1	30	2350	2900
	15	30	2350	2900
Apr.	1	30	2350	2900
	15	30	2350	2900
May	1	30	3325	2900
	15	30	3400	3500
Jun.	1	30	3400	3500
	15	30	3400	3500
Jul.	1	20*	3400	3500
	15	20*	2950	3000
Aug.	1	20*	1700	2400
	15	10*	1700	1900
Sep.	1	10*	1700	1800
	15	10*	1700	1700
Oct.	1	20*	1700	1700
	15	20*	2050	2050
Nov.	1	20*	2050	2300
	15	20	2050	2500
Dec.	1	20	2050	2900
	15	20	2050	2900

Month	Day	12-2080-00 Nooksack River (Middle Fork)	12-2072-00 Nooksack River (North Fork nr. Deming)	12-2090-00 Nooksack River (South Fork)
Jan.	1	275	1100	650
	15	275	1100	650
Feb.	1	380	1100	650
	15	380	1100	850
Mar.	1	380	1100	850
	15	380	1100	850
Apr.	1	380	1100	850
	15	380	1100	850
May	1	380	1100	850
	15	450	2000	850
Jun.	1	525	2000	850
	15	525	2000	850
Jul.	1	525	2000	850*
	15	400	2000	550*
Aug.	1	275	1100	300*
	15	275	1100	300*
Sep.	1	275	1100*	300*
	15	275	1100*	300*
Oct.	1	275	1100*	300*
	15	275	1100*	650*
Nov.	1	275	1100*	650

Month	Day	12-2080-00 Nooksack River (Middle Fork)	12-2072-00 Nooksack River (North Fork nr. Deming)	12-2090-00 Nooksack River (South Fork)
	15	275	1100	650
Dec.	1	275	1100	650
	15	275	1100	650

Month	Day	WDOE-2084-00 Porter Creek	WDOE-2071-00 Racehorse Cr.	WDOE-2155-00 Saar Creek
Jan.	1	10	60	35*
	15	10	60	35*
Feb.	1	10	60	35*
	15	10	60	35*
Mar.	1	10	60	35*
	15	10	60	35*
Apr.	1	10	60	35*
	15	10	80	35*
May	1	10	80	35*
	15	10	90	35*
Jun.	1	10	90	35*
	15	10	90	35*
Jul.	1	10*	50*	22*
	15	6*	35*	15*
Aug.	1	3*	20*	9*
	15	3*	20*	6*
Sep.	1	3*	20*	6*
	15	3*	20*	6*
Oct.	1	3*	20*	12*
	15	6*	30*	14*
Nov.	1	10*	35*	17*
	15	10	40	19*
Dec.	1	10	47	23*
	15	10	55	35*

Month	Day	WDOE-2132-00 Silver Creek	12-2095-00 Skookum Cr.	WDOE-2111-00 Smith Creek
Jan.	1	12	115	40
	15	12	115	40
Feb.	1	12	115	40
	15	12	115	40
Mar.	1	12	115	40
	15	12	115	40
Apr.	1	12	115	40
	15	12	115	60
May	1	12*	115	60*
	15	9*	115	60*
Jun.	1	7*	115	60*
	15	6*	115	40*
Jul.	1	4*	115*	35*
	15	3*	66*	25*
Aug.	1	3*	66*	15*
	15	3*	66*	10*
Sep.	1	3*	66*	10*
	15	3*	66*	10*
Oct.	1	4*	66*	15*
	15	4*	80*	20*
Nov.	1	6*	115*	23*
	15	10	115	25
Dec.	1	12	115	30
	15	12	115	35

Month	Day	12-2145-00 Sumas River	12-2129-00 Tenmile Cr.	WDOE-2133-00 Terrell Creek	WDOE-2126-00 Wiser Lk. Cr.
Jan.	1	100*	40*	12	11
	15	100*	40*	12	11
Feb.	1	100*	40*	12	11
	15	100*	40*	12	11
Mar.	1	100*	40*	12	11
	15	100*	40*	12	11
Apr.	1	100*	40*	12	9
	15	100*	40*	12	7

Month	Day	12-2145-00 Sumas River	12-2129-00 Tenmile Cr.	WDOE- 2133-00 Terrell Creek	WDOE- 2126-00 Wiser Lk. Cr.
May	1	70*	30*	8*	6*
	15	60*	22*	5*	5*
Jun.	1	40*	17*	4*	4*
	15	35*	12*	3*	3*
Jul.	1	25*	10*	2*	2*
	15	20*	7*	2*	2*
Aug.	1	20*	5*	2*	2*
	15	20*	5*	2*	2*
Sep.	1	20*	5*	2*	2*
	15	20*	6*	2*	2*
Oct.	1	20*	7*	2*	2*
	15	20*	10*	2*	2*
Nov.	1	35*	15*	3*	3*
	15	60*	20*	5	6
Dec.	1	80*	30*	7	8
	15	100*	40*	12	11

(1) through (3) as measured at the appropriate gage, preferably the nearest one downstream and at all other downstream control stations, except for those uses described in WAC 173-501-070 (1) through (3).

(5) Projects that would reduce the flow in a section of stream's length (e.g., hydroelectric projects that withdraw streamflow from some length of the channel) are considered consumptive with respect to the affected stream reach. Such projects will be subject to instream flow requirements as specified by the department. These flows will be those established in WAC 173-501-030 (1) through (3) and WAC 173-501-040, or may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach and project-specific flow requirements, the department will require the project proponent to conduct such studies in consultation with affected state and federal agencies and Indian tribes. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-030, filed 12/4/85.]

(3) Instream flow hydrographs, as represented in Appendix A of the document entitled Nooksack instream resources protection program, shall be used for identification of instream flows on those days not specifically identified in WAC 173-501-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Nooksack WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-501-030

**WAC 173-501-040 Surface water source limitations to further consumptive appropriation.** (1) The following table indicates the status of streams, tributaries and lakes affected by this chapter.

Source Name	Tributary To	Former Administrative Status	Status Under Regulation	Period of Closure	Flow Established
Anderson Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Bells Creek	North Fork Nooksack	open	closure	year round	WAC 173-501-030(2)
Bertrand Creek	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Black Slough	Nooksack - South Fork	low flow	low flow		
California Creek	Drayton Harbor	closure	closure	year round	WAC 173-501-030(2)
Canyon Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Canyon (Lake) Creek					
Chuckanut Creek	Middle Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Colony Creek	Chuckanut Bay	low flow	closure	year round	natural flow
(incl. Whitehall)					
Cornell Creek	Samish Bay	open	closure	year round	natural flow
Dakota Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Deer Creek	Drayton Harbor	closure	closure	year round	WAC 173-501-030(2)
	Barrett Lake				
	(Tenmile)	closure	closure	year round	WAC 173-501-030(2)
Fishtrap Creek					
(incl. Double Ditch)					
Fourmile Creek	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Gallop Creek	Tenmile Creek	closure	closure	year round	
Hutchinson Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Johnson Creek	South Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Kamm Ditch/	Sumas River	closure	closure	year round	WAC 173-501-030(2)
Stickney Slough					
Kendall Creek	Nooksack River	closure	closure	year round	natural flow
Maple Creek	North Fork Nooksack	open	closure	year round	WAC 173-501-030(2)
Nooksack River - mainstem	North Fork Nooksack	open	closure	July 1-Oct. 31	WAC 173-501-030(2)
Nooksack River - Middle Fk.	Bellingham Bay	low flow	minimum flow (new flow)		WAC 173-501-030(2)
Nooksack River - North Fk.	Nooksack River	low flow	minimum flow (new flow)		WAC 173-501-030(2)
Nooksack River - South Fk.	Nooksack River	low flow	partial year closure	Sept. 1-Oct. 31	WAC 173-501-030(2)
Oyster Creek	Nooksack River	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Padden Creek	Samish Bay	open	closure	year round	natural flow
Porter Creek	Bellingham Bay	open	closure	year round	natural flow
Racehorse Creek	Middle Fork Nooksack	open	partial year closure	July 1-Oct. 1	WAC 173-501-030(2)
Saar Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Saxon Creek	Vedder Canal-Canada	open	closure	year round	WAC 173-501-030(2)
	South Fork Nooksack	open	closure	year round	natural flow

**Instream Resources Protection Program--Nooksack Water Resource Inventory Area (WRIA) 173-501-070**

Source Name	Tributary To	Former Administrative Status	Status Under Regulation	Period of Closure	Flow Established
Silver Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Skookum Creek	South Fork Nooksack	low flow	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Smith Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Squalicum Creek	Bellingham Bay	closure	closure	year round	
Sumas River	Vedder Canal-Canada	closure	closure	year round	WAC 173-501-030(2)
Tenmile Creek	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Terrell Creek	Birch Bay	open	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Thompson Creek	Glacier Cr./N. Fk.	open	partial year closure	July 1-Oct. 31	natural flow
Unnamed Stream - Elder Ditch/Scott Ditch	Nooksack River	low flow	low flow		
Unnamed stream - White Creek	Colony Creek	closure	closure		
Whatcom Creek*	Bellingham Bay	open	closure	year round	natural flow
Wiser Lake Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Lummi Indian Reservation Streams		closure	closure		
Barrett Lake	Tenmile Creek	closure	closure		NA
Green Lake	Fourmile Creek	closure	closure		NA
Lake Terrell	Terrell Creek	closure	closure		NA
Lake Whatcom**	Whatcom Creek	court-ordered lake level closure	closure	year round	
Wiser Lake	Wiser Lake Creek	closure	closure		NA

For streams listed as "natural flow," insufficient data are available to develop instream flows outside the closure period. Water right applications for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game; tribes will also be notified.

Streams which are not specifically listed in this regulation are affected by the regulation if they are tributary to streams or lakes listed herein; otherwise such streams are not affected.

\*No exemptions. See WAC 173-501-070(2).

\*\*Lake Whatcom and its tributaries are closed to all further consumptive appropriation; however, any water right applications for consumptive use which were on file with the department of ecology on August 7, 1985 shall be exempt from the closure through the period extending one year from the effective date of this chapter.

(2) When a project (as described in WAC 173-501-030(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-040, filed 12/4/85.]

**WAC 173-501-050 Lakes.** In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-050, filed 12/4/85.]

**WAC 173-501-060 Ground water.** If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public ground waters may be approved. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-060, filed 12/4/85.]

**WAC 173-501-070 Exemptions.** (1) Nothing in this chapter shall affect existing water rights, perfected riparian rights, federal Indian and non-Indian reserved rights, appropriative or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic, (including up to 1/2 acre lawn and garden irrigation and associated noncommercial stockwatering) shall be exempt from the provisions established in this chapter, except that Whatcom Creek is closed to any further appropriation, including otherwise exempted single domestic use. For all other streams, when the cumulative impact of single domestic diversions begins to significantly affect the quantity of water available for instream uses, then any water rights issued after that time shall be issued for in-house use only, if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of this chapter may be approved. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-070, filed 12/4/85.]

**WAC 173-501-080 Policy statement for future permitting actions.** (1) No rights to divert or store public surface waters of WRIA 1 shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020 (3)(a).

(2) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Nooksack WRIA by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-080, filed 12/4/85.]

**WAC 173-501-090 Enforcement.** In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-090, filed 12/4/85.]

**WAC 173-501-100 Regulation review.** Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date of adoption. [Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-100, filed 12/4/85.]

**Chapter 173-514 WAC**

**INSTREAM RESOURCES PROTECTION PROGRAM--KENNEDY-GOLDSBOROUGH WATER RESOURCE INVENTORY AREA (WRIA 14)**

**WAC**

- 173-514-010 General provision.
- 173-514-020 Purpose.
- 173-514-030 Establishment of instream flows.
- 173-514-040 Surface water source limitations to further consumptive appropriation.
- 173-514-050 Lakes.
- 173-514-060 Exemptions.
- 173-514-070 Future rights.
- 173-514-080 Enforcement.
- 173-514-090 Regulation review.

**WAC 173-514-010 General provision.** These rules apply to waters within the Kennedy-Goldsborough water resource inventory area (WRIA 14), as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (Minimum water flows and levels), chapter 75.20 RCW (State Fisheries Code) and in accordance with chapter 173-500 WAC (Water resources management program). [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-010, filed 1/23/84.]

**WAC 173-514-020 Purpose.** The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Kennedy-Goldsborough water resource inventory area with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, and environmental values, recreation, navigation, and water quality. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-020, filed 1/23/84.]

**WAC 173-514-030 Establishment of instream flows.** (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name Reach	Control Station By River Mile and Sec. Township, & Range	Stream Management
12-0740-00 Shumocher Creek	.02 Sec.7, T.21N., R.2WWM	From Mason Lake to headwaters including all tributaries.
WDOE-0745-50 Sherwood Creek	0.14 Sec.20, T.22N., R.1WWM	From influence of mean annual high tide at low instream flow levels to Mason Lake, including Mason Lake and all tributaries.
12-0750-00 Deer Creek	0.8 Sec.20, T.21N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
12-0755-00 Cranberry Creek	0.5 Sec.36, T.21N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Cranberry Lake, Lake Limerick and all tributaries.
12-0760-00 Johns Creek	2.5 Sec.3, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0770-50 Goldsborough Creek	0.23 Sec.20, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0775-50 Mill Creek	3.1 Sec.25, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Lake Isabella and all tributaries.
12-0780-00 Skookum Creek	3.0 Sec.19, T.19N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0785-50 Kennedy Creek	0.06 Sec.32, T.19N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Summit Lake and all tributaries.

Kennedy-Goldsborough Area--WRIA 14

173-514-030

Control Station No. Stream Management Unit Name Reach	Control Station By River Mile and Sec. Township, & Range	Stream Management
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WDOE-0787-00 Perry Creek	1.06 Sec.13, T.18N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
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(2) Instream flows are established for the stream management units in WAC 173-514-030(1) as follows:

Instream Flows in the Kennedy-Goldsborough WRIA  
(Instantaneous cubic feet per second)

Month	Day	12-0740-00 Shumocher Creek	WDOE 0745-50 Sherwood Creek	12-0750-00 Deer Creek
Jan	1	20	60	55
	15	20	60	55
Feb	1	20	60	55
	15	20	60	55
Mar	1	20	60	55
	15	20	60	55
Apr	1	20	60	55
	15	20	60	46
May	1	17	48	39
	15	14	37	33
Jun	1	12	29	28
	15	10	23	23.5
Jul	1	8.6	17.5	20
	15	7.2	14	20
Aug	1	6	11	20
	15	6	11	20
Sep	1	6	11	20
	15	6	11	20
Oct	1	6	11*	20*
	15	6	19*	20*
Nov	1	11	34*	33*
	15	20	60*	55*
Dec	1	20	60	55
	15	20	60	55

\*Denotes closure period to all consumptive uses

Instream Flows in the Kennedy-Goldsborough WRIA  
(Cont'd)  
(Instantaneous cubic feet per second)

Month	Day	12-0755-00 Cranberry Creek	12-0760-00 Johns Creek	WDOE-0770-50 Goldsborough Creek
Jan	1	50	45	50
	15	50	45	50
Feb	1	50	45	50
	15	50	45	85
Mar	1	50	45	85
	15	50	45	85
Apr	1	50	45	85
	15	40	45	85
May	1	31	34	85*

Month	Day	12-0755-00 Cranberry Creek	12-0760-00 Johns Creek	WDOE-0770-50 Goldsborough Creek
	15	23.5	26	85*
Jun	1	18	20	85*
	15	14	15.5	69*
Jul	1	10.5	12	55*
	15	8	9	52*
Aug	1	8	7	48*
	15	8	7	45*
Sep	1	8	7	45*
	15	8	7	45*
Oct	1	8*	7*	45*
	15	15*	7*	50*
Nov	1	28*	18*	50
	15	50*	45*	50
Dec	1	50	45	50
	15	50	45	50

\*Denotes closure period to all consumptive uses

Instream Flows in the Kennedy-Goldsborough WRIA  
(Cont'd)  
(Instantaneous cubic feet per second)

Month	Day	WDOE 0775-50 Mill Creek	12-0765-00 Skookum Creek	WDOE-0785-50 Kennedy Creek	WDOE-0787-00 Perry Creek
Jan	1	65	40	60	30
	15	65	40	60	30
Feb	1	65	40	60	30
	15	65	40	60	30
Mar	1	65	40	60	30
	15	65	40	60	30
Apr	1	65	40	60	21
	15	65	40	46	14
May	1	55	26*	35*	10*
	15	46	16.5*	27*	6.8*
Jun	1	40	11*	20*	4.6*
	15	33	7*	16*	3.2*
Jul	1	28	4.6*	12*	2.2*
	15	24	3*	9*	1.5*
Aug	1	20	3*	7*	1*
	15	20	3*	7*	1*
Sep	1	20	3*	7*	1*
	15	20	3*	7*	1*
Oct	1	20	3*	7*	1*
	15	20	5.6*	14*	2.5*
Nov	1	35	15	29*	5.4
	15	65	40	60*	13
Dec	1	65	40	60	30
	15	65	40	60	30

\*Denotes closure period to all consumptive uses

(3) Instream flow hydrographs, as represented in the document entitled "Kennedy-Goldsborough instream resources protection program, figs. 2-7, pgs. 26-28," shall be used for identification of instream flows on those days not specifically identified in WAC 173-514-030(2).



(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Kennedy-Goldsborough WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-514-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream, except from those exempted uses described in WAC 173-514-060 (1) through (3).

(5) Projects that would reduce the flow in a portion of a stream's length (e.g.: Hydroelectric projects that bypass a portion of a stream) will be considered consumptive only with respect to the affected portion of the stream and will be subject to specific instream flow requirements as specified by the department for the bypassed reach notwithstanding WAC 173-514-030 (1) through (3) and 173-514-040 if detailed, project-specific instream flow studies for the bypassed reach, as may be required, demonstrate that a different flow requirement is appropriate. The department may require the project proponent to conduct such studies.

(6) If department investigations determine that withdrawal of ground water from the source aquifers would not interfere significantly with stream flow during the period of stream closure or with maintenance of minimum flows, then applications to appropriate public ground waters may be approved and permits or certificates issued. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-030, filed 1/23/84.]

**WAC 173-514-040 Surface water source limitations to further consumptive appropriation.** (1) The department, having determined further consumptive appropriation for all uses would harmfully impact instream values, closes the following streams including tributaries for the period indicated:

(a) Stream Name	Tributary to	Closure Period
Alderbrook Creek	Hood Canal	May 1 - October 31
Campbell Creek	Oakland Bay	May 1 - October 31
Elson Creek	Skookum Inlet	May 1 - October 31
Fawn Lake Outlet	Skookum Inlet	May 1 - October 31
Jones Creek	Pickering Passage	May 1 - October 31
Jarrell Creek	Jarrell Cove	May 1 - October 31
Little Creek	Skookum Creek	May 1 - October 31
Melaney Creek	Oakland Bay	May 1 - October 31
Shelton Creek	Oakland Bay	May 1 - October 31
Twahnoh Creek	Hood Canal	May 1 - October 31
Uncle John Creek	Oakland Bay	May 1 - October 31

The minimum flow during the closure period on the streams listed above is the natural flow. Because insufficient flow data is available to develop instream flows outside the closure period, minimum flows for any water right application for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game (RCW 75.20.050).

(b) Stream Name	Closure Period
Kennedy Creek	May 1 - November 15
Cranberry Creek	September 16 - November 15
Deer Creek	September 16 - November 15
Johns Creek	September 16 - November 15
Sherwood Creek	September 16 - November 15
Perry Creek	May 1 - October 31

Because sufficient hydrologic data is available for the above streams, a minimum flow is established during the closed and nonclosed period in WAC 173-514-030(2).

(2) Except as noted in the footnotes, the following existing surface water source limitations, previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050 are hereby confirmed and adopted for the period indicated:

Stream*/Tributary to	Action	Period
Goldsborough Creek - Oakland Bay	Closure+	May 1 - October 31
Gosnell Creek - Isabella Lake	Low flow (10 cfs)	All year
Jarrell Creek - Jarrell Cove	Low flow@ (.30 cfs)	May 1 - October 31
Johns Creek - Oakland Bay	Low flow@ (4 cfs)	Sept. 16 - November 15
Kennedy Creek - Totten Inlet	Low flow@ (3 cfs)	May 1 - November 15
Schneider Creek - Totten Inlet	Closure#	May 1 - October 31
Skookum Creek - Skookum Inlet	Closure+	May 1 - October 31
Summit Lake - Kennedy Creek	Lake level	All year
Unnamed Stream - Mill Creek Sec.34, T.20N R.3 EWM	Low flow (2 cfs)	All year

\*Closures and low flow limitations also apply to tributaries of these streams.

@Superseded by a new action in this section.

#The minimum flow during the closure period is the natural flow.

+Minimum flows are specified in WAC 173-514-030(2).

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-040, filed 1/23/84.]

**WAC 173-514-050 Lakes.** In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-050, filed 1/23/84.]

**WAC 173-514-060 Exemptions.** (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic and stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter. If the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for instream uses, then only single domestic in-house use shall be exempt if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-060, filed 1/23/84.]

**WAC 173-514-070 Future rights.** No rights to divert or store public surface waters of the Kennedy-Goldsborough WRIA 14, shall hereafter be granted which shall conflict with the purpose of this chapter. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-070, filed 1/23/84.]

**WAC 173-514-080 Enforcement.** In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-080, filed 1/23/84.]

**WAC 173-514-090 Regulation review.** Review of the rules in this chapter shall be initiated by the department of ecology within five years of the date of adoption. [Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-090, filed 1/23/84.]

### Chapter 173-549 WAC WATER RESOURCES PROGRAM IN THE OKANOGAN RIVER BASIN, WRIA-49

#### WAC

173-549-010	General provision.
173-549-015	Purpose.
173-549-016	Definition.
173-549-020	Establishment of minimum instream flows.
173-549-025	Stream closures.
173-549-027	Policy statement for future permitting actions.
173-549-030	Repealed.
173-549-035	Lakes.
173-549-040	Repealed.
173-549-050	Repealed.
173-549-060	Ground water.
173-549-070	Effect on prior rights and exemptions.
173-549-080	Future rights.
173-549-090	Enforcement.
173-549-100	Regulation review.
173-549-900	Minimum instream flow hydrographs.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-549-030	Future allocations—Reservation of surface water for beneficial uses. [Order DE 76-25, § 173-549-030, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.
173-549-040	Priority of future water rights during times of water shortage. [Order DE 76-25, § 173-549-040, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.
173-549-050	Streams and lakes closed to further consumptive appropriations. [Order DE 76-25, § 173-549-050, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.

**WAC 173-549-010 General provision.** These rules apply to waters within the Okanogan River Basin (WRIA 49) as defined in WAC 173-500-040. This

chapter is promulgated pursuant to chapter 90.54 RCW (the Water Resources Act of 1971) and chapter 90.22 RCW (Minimum water flows and levels) and in accordance with chapter 173-500 WAC (Water resources management program). [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-010, filed 6/20/84; Order DE 76-25, § 173-549-010, filed 7/14/76.]

**WAC 173-549-015 Purpose.** Chapter 90.54 RCW (the Water Resources Act of 1971) requires that utilization and management of the waters of the state shall be guided by a number of fundamentals, including the following:

"(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial." (RCW 90.54.020(1).)

The act further specifies that "Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values." (RCW 90.54.020 (3)(a).)

The purpose of this chapter is to satisfy the requirements of RCW 90.54.020 (3)(a) while, at the same time, allowing the continued use of water for other beneficial uses such as agriculture, which is acknowledged as a vital activity greatly benefiting the citizens of the Okanogan Basin and the state of Washington. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-015, filed 6/20/84.]

**WAC 173-549-016 Definition.** For the purposes of this chapter, the term minimum instream flow shall be synonymous with the term base flow as defined in chapter 90.54 RCW and the term minimum flow as defined in chapter 90.22 RCW. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-016, filed 6/20/84.]

**WAC 173-549-020 Establishment of minimum instream flows.** (1) Minimum instream flows are established for stream management units with monitoring to take place at certain control points as follows:

#### Stream Management Unit Information

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach
Lower Okanogan		
Okanogan R. at Malott (12447200)	17.0, 9-32-25E	Okanogan River confluence with Wells Pool to confluence of Chewiliken Cr.

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach
<b>Middle Okanogan</b>		
Okanogan R. nr. Tonasket (12445000)	50.8, 8-36-27E	Okanogan River confluence of Chewiliken Creek to confluence Similkameen River
<b>Upper Okanogan</b>		
Okanogan R. at Oroville (12439500)	77.3, 27-40-27E	Okanogan River confluence of Similkameen River to Osoyoos Lake
<b>Similkameen</b>		
Similkameen R. at Nighthawk (12442500)	15.8, 7-40-26E	Similkameen River confluence with Okanogan River to Canadian Border

(2) Minimum instream flows established for the stream management units in WAC 173-549-020(1) are as follows:

**Minimum Instream Flows in the Okanogan River  
(All Figures in Cubic Feet Per Second)**

Month	Day	Lower Okanogan 12447200	Middle Okanogan 1244500	Upper Okanogan 124426000	Similkameen 12439500
Jan.	1	860	800	320	400
	15	830	800	320	400
Feb.	1	820	800	320	400
	15	850	800	320	400
Mar.	1	880	800	320	425
	15	900	800	320	450
Apr.	1	925	910	330	510
	15	1,100	1,070	340	640
May	1	1,750	1,200	350	1,100
	15	3,800	3,800	500	3,400
Jun.	1	3,800	3,800	500	3,400
	15	3,800	3,800	500	3,400
Jul.	1	2,100	2,150	420	1,900
	15	1,200	1,200	350	1,070
Aug.	1	800	840	320	690
	15	600	600	300	440
Sept.	1	620	600	300	400
	15	700	600	300	400
Oct.	1	750	730	330	450
	15	960	900	370	500
Nov.	1	950	900	370	500
	15	950	900	320	500
Dec.	1	930	900	320	500
	15	900	850	320	450

(3) Minimum instream flow hydrographs, as represented in WAC 173-549-900, shall be used for definition of minimum instream flows on those days not specifically identified in WAC 173-549-020(2).

(4) Future consumptive water right permits hereafter issued for diversion of surface water from the mainstem Okanogan River and the Similkameen River shall be

expressly subject to minimum instream flows established in WAC 173-549-020 (1) through (3) except those described in WAC 173-549-070.

(5) Projects that would reduce the flow in a portion of a stream's length (e.g. hydroelectric projects that bypass a portion of a stream) will be considered consumptive only with respect to the affected portion of the stream. Such projects will be subject to instream flows as specified by the department. These flows may be those established in WAC 173-549-020 or, when appropriate, may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach- and project-specific flow requirements, the department may require the project proponent to conduct such studies. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-020, filed 6/20/84; Order DE 76-25, § 173-549-020, filed 7/14/76.]

**WAC 173-549-025 Stream closures.** (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers of the Okanogan River Basin for protection of instream values.

(2) In keeping with this policy, a partial year closure from May 1 to October 1 will be established on all perennial streams in the basin except those with established minimum instream flows as described in WAC 173-549-020.

(3) The upper Okanogan stream management unit as established in WAC 173-549-020(1) is closed to further consumptive appropriation from June 15 through August 31 with the exception of single-domestic use and stock-watering use, provided that no alternative source of supply is available.

(4) When a project (as described in WAC 173-549-020(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-025, filed 6/20/84.]

**WAC 173-549-027 Policy statement for future permitting actions.** (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Okanogan River Basin by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights.

(2) All future permits to appropriate water from the Okanogan River, the Similkameen River and perennial tributaries shall be subject to the required flows at all downstream control stations as established in WAC 173-549-020. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-027, filed 6/20/84.]

**WAC 173-549-030 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 173-549-035 Lakes.** (1) In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. In considering future water right applications, the department shall deny any application for surface or ground water which will result in a significant decrease in lake level or in the stream flow of any stream draining the lake, except that no decrease in stream flow shall be allowed during the May 1 - October 1 stream closure period.

(2) Notwithstanding the above, nothing in this chapter shall limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or instream flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(3) Any future water rights for waters from Osoyoos Lake or from ground waters determined to be in significant hydraulic continuity with Osoyoos Lake, issued after the effective date of this chapter and upon completion of the new Osoyoos Lake outlet control structure, shall be subject to the maintenance of a water surface level of 910.5 feet USCGS in Osoyoos Lake and said diversions shall be curtailed when the lake elevation drops below elevation 910.5 feet USCGS.

(4) Notwithstanding the provisions of this chapter, the construction and operation of the proposed new outlet control structure for Osoyoos Lake shall be consistent with the terms and conditions of the International Joint Commission Order of Approval signed on December 9, 1982, pursuant to the 1909 Boundary Waters Treaty. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-035, filed 6/20/84.]

**WAC 173-549-040 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 173-549-050 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 173-549-060 Ground water.** If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance

of minimum instream flows, then applications to appropriate public ground waters may be approved. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-060, filed 6/20/84; Order DE 76-25, § 173-549-060, filed 7/14/76.]

**WAC 173-549-070 Effect on prior rights and exemptions.** (1) Nothing in this chapter shall affect any existing water rights including, among others, riparian, appropriative, and federal Indian and non-Indian reserved rights, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic use and stockwatering use shall be exempt from the provisions established in this chapter except that, when the cumulative impacts of numerous domestic diversions begins to significantly affect the quantity of water available for instream uses or the maintenance of lake levels, then any water rights issued after that time shall be issued only for in-house use if no alternative supply is available.

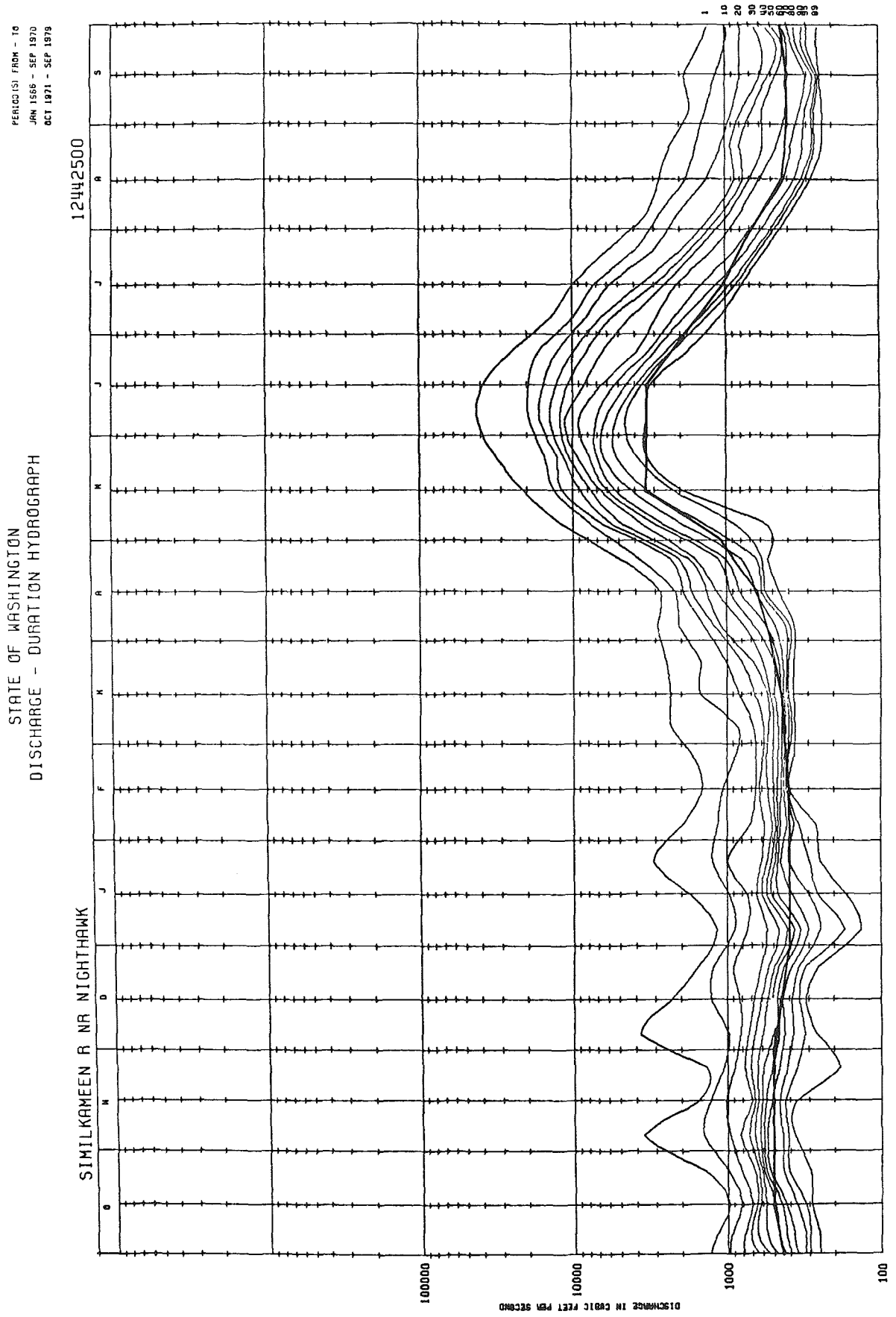
(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-070, filed 6/20/84; Order DE 76-25, § 173-549-070, filed 7/14/76.]

**WAC 173-549-080 Future rights.** No rights to divert or store public surface or ground waters of the Okanogan River Basin, WRIA 49, shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020 (3)(a). [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-080, filed 6/20/84.]

**WAC 173-549-090 Enforcement.** In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 43.83B.335. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-090, filed 6/20/84.]

**WAC 173-549-100 Regulation review.** This chapter shall be reviewed by the department of ecology at least once in every five-year period. [Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-100, filed 6/20/84.]

WAC 173-549-900 Minimum instream flow hydrographs.

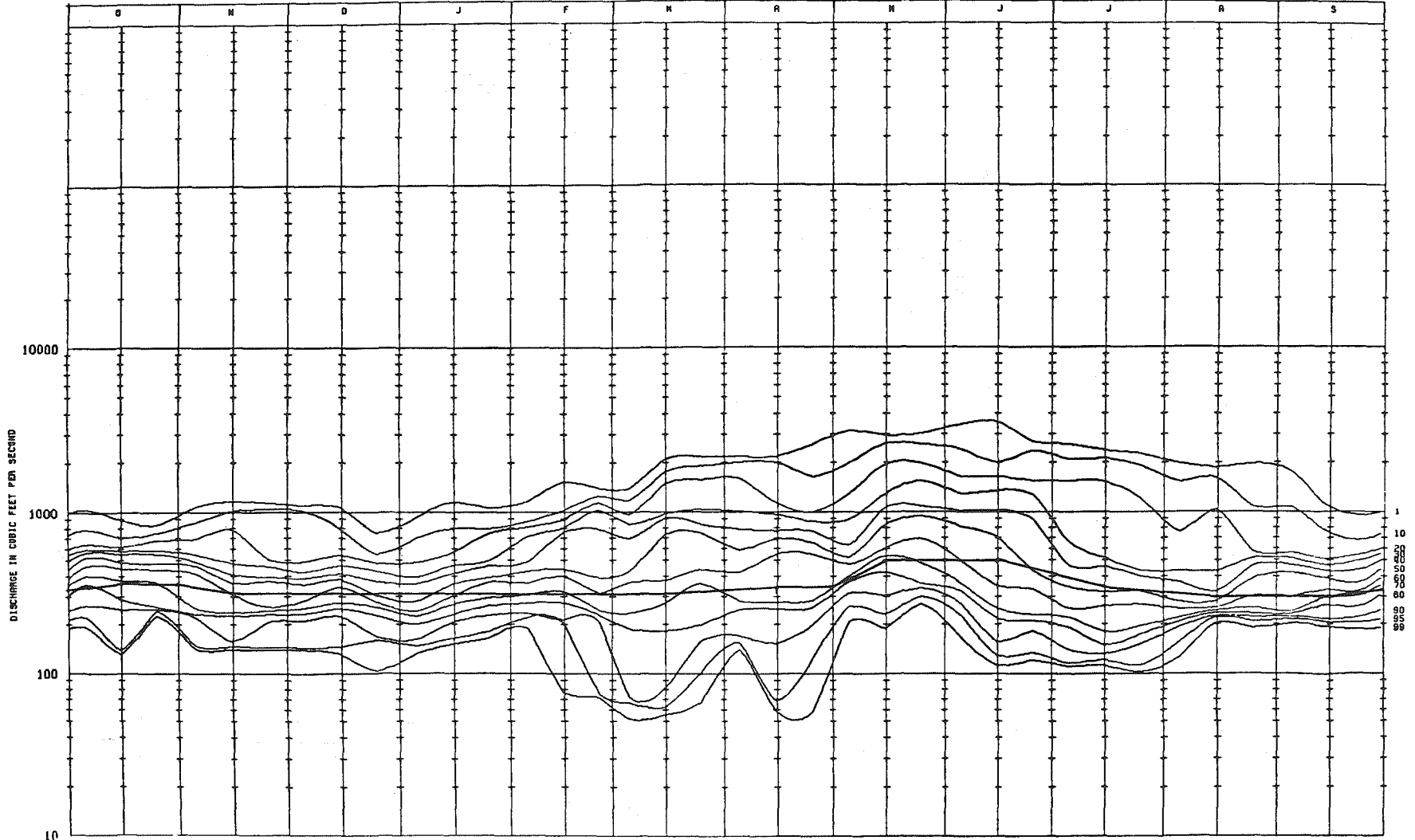


STATE OF WASHINGTON  
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO  
JAN 1866 - SEP 1970  
OCT 1971 - SEP 1979

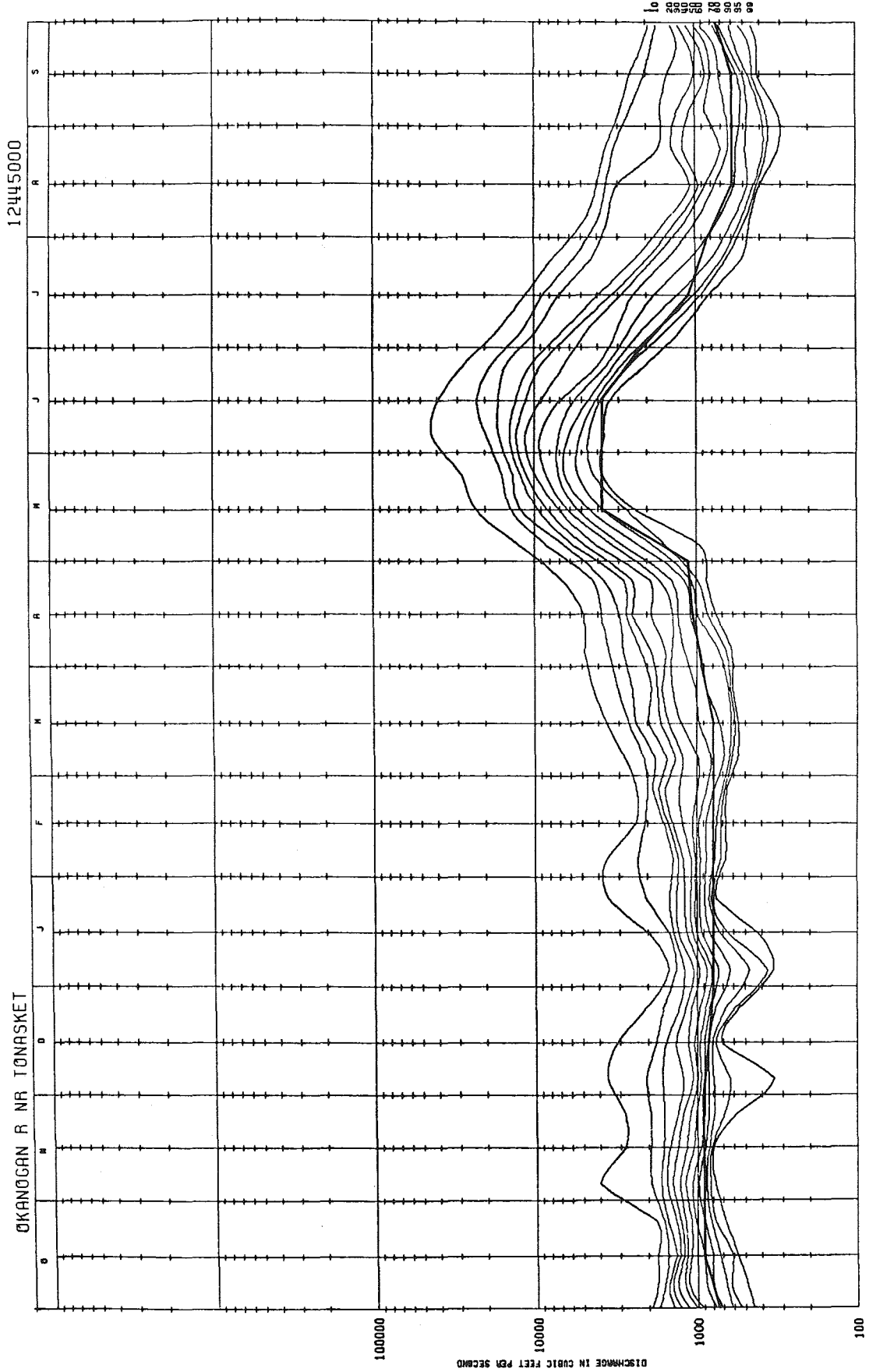
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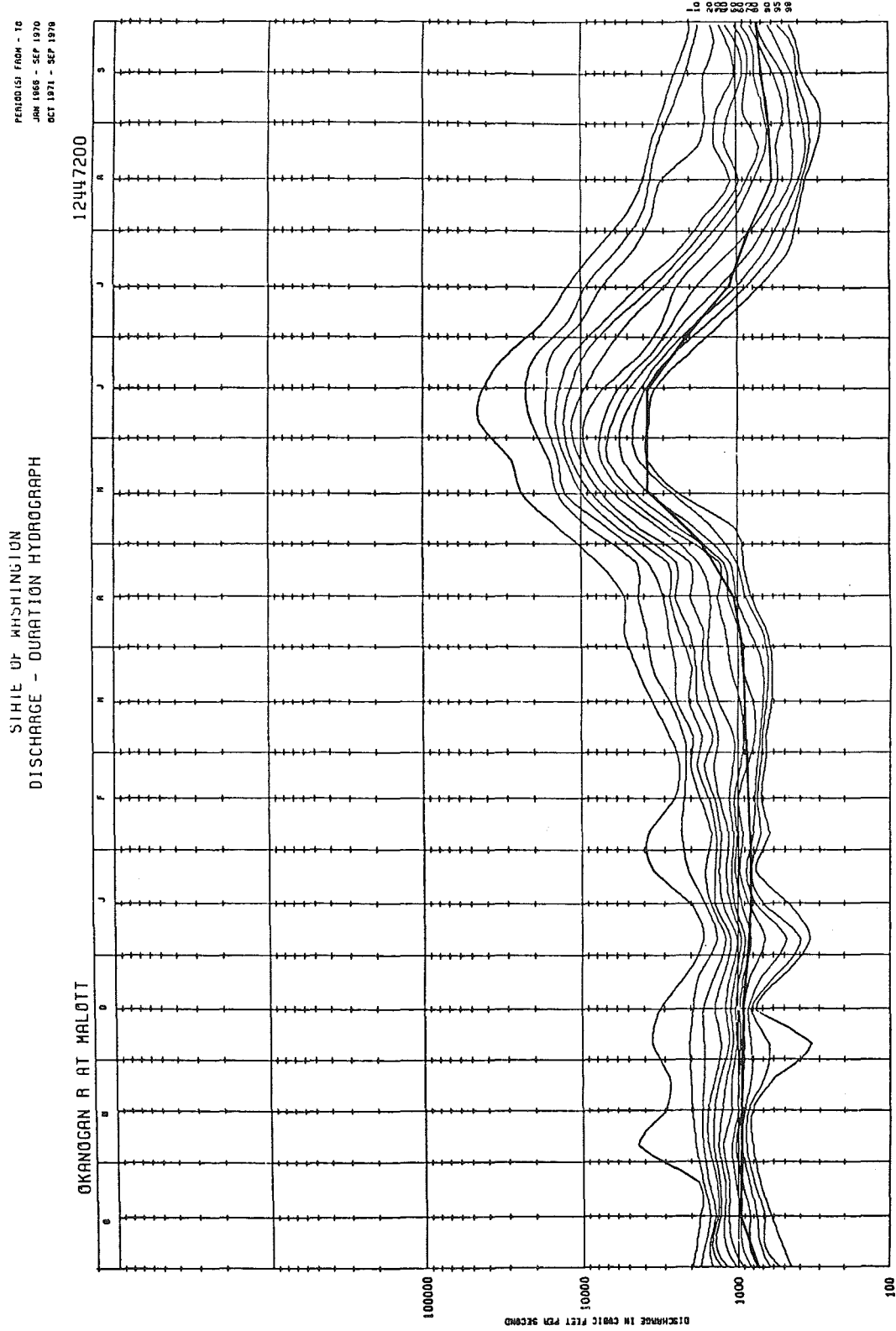
12439500



PERIOD(S) FROM - TO  
JAN 1966 - SEP 1970  
OCT 1971 - SEP 1979

STATE OF WASHINGTON  
DISCHARGE - DURATION HYDROGRAPH





[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-900, filed 6/20/84.]



**Chapter 173-801 WAC**  
**DEPARTMENT OF ECOLOGY "SEPA"**  
**GUIDELINES**

## WAC

173-801-010 through 173-801-130 Repealed.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 173-801-010 Authority. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-010, filed 4/4/78. Formerly WAC 173-800-010.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-020 Adoption by reference. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-020, filed 4/4/78.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-030 Purpose. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-030, filed 4/4/78. Formerly WAC 173-800-020.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-040 Effect of SEPA. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-040, filed 4/4/78. Formerly WAC 173-800-030.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-045 Integration of SEPA procedures with other departmental operations. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-045, filed 4/4/78. Formerly WAC 173-800-035.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-050 Designation of responsible official. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-050, filed 4/4/78. Formerly WAC 173-800-050.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-060 Timing. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-060, filed 4/4/78. Formerly WAC 173-800-060.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-070 Summary of information which may be required of a private applicant. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-070, filed 4/4/78. Formerly WAC 173-800-080.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-080 Sensitive areas. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-080, filed 4/4/78. Formerly WAC 173-800-140.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-090 Individuals making SEPA-related determinations. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-090, filed 4/4/78. Formerly WAC 173-800-280.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-100 Threshold determination appeal procedures. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-100, filed 4/4/78. Formerly 173-800-380.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.

- 173-801-110 Statute of limitation. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-110, filed 4/4/78. Formerly WAC 173-800-390.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-120 Coordination on combined DOE-federal action. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-120, filed 4/4/78.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.
- 173-801-130 Severability. [Statutory Authority: RCW 43.21C.120. 78-04-090 (Order DE 78-5), § 173-801-130, filed 4/4/78. Formerly WAC 173-800-910.] Repealed by 84-13-037 (Order DE 84-21), filed 6/15/84. Statutory Authority: RCW 43.21C.120 and 43.21C.135.

**WAC 173-801-010 through 173-801-130 Repealed.**  
 See Disposition Table at beginning of this chapter.

**Chapter 173-802 WAC**  
**SEPA PROCEDURES**

## WAC

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- 173-802-140 Responsibilities of individuals and work units within the department.
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**WAC 173-802-010 Authority.** These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules). [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-010, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-020 Adoption by reference.** The department of ecology adopts the following sections or subsections of chapter 197-11 WAC by reference.

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.

- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping. (Optional)
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.
- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.
- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-455 Issuance of DEIS.
- 197-11-460 Issuance of FEIS.
- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.
- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement—Procedures.
- 197-11-625 Addenda—Procedures.
- 197-11-630 Adoption—Procedures.
- 197-11-635 Incorporation by reference—Procedures.
- 197-11-640 Combining documents.
- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.
- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decisionmaker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- 197-11-748 Environmentally sensitive area.
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Lands covered by water.
- 197-11-758 Lead agency.
- 197-11-760 License.
- 197-11-762 Local agency.
- 197-11-764 Major action.
- 197-11-766 Mitigated DNS.
- 197-11-768 Mitigation.
- 197-11-770 Natural environment.
- 197-11-772 NEPA.
- 197-11-774 Nonproject.
- 197-11-776 Phased review.
- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
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- 197-11-792 Scope.
- 197-11-793 Scoping.
- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.
- 197-11-800 Categorical exemptions.
- 197-11-810 Exemptions and nonexemptions applicable to specific state agencies.
- 197-11-855 Department of ecology.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.
- 197-11-900 Purpose of this part.
- 197-11-908 Environmentally sensitive areas.
- 197-11-912 Procedures on consulted agencies.
- 197-11-916 Application to ongoing actions.
- 197-11-917 Relationship to chapter 197-10 WAC.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.

- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-020, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-030 Purpose.** This chapter implements the state-wide rules in chapter 197-11 WAC as they apply to the department of ecology. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-030, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-040 Additional definitions.** In addition to the definitions contained in WAC 197-11-700 through 197-11-799, the following terms shall have the listed meanings:

(1) "Office" means one of the five offices in the department of ecology supervised by an assistant director.

(2) "Region" means any one of the four regional offices of the department.

(3) "Program" means any one of the department's headquarters sections or divisions that administers a program, such as water quality, water resources, shorelands, and hazardous waste. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-040, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-050 Designation of responsible official.** Within the department of ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be a supervisor of a regional office branch or a division supervisor, unless more than

one division or regional office branch is involved in a proposal; if so, the responsible official shall be the next higher supervisor common to all involved divisions. When two or more offices are involved, or an office and a division supervised by a special assistant are involved, the deputy director shall designate the responsible official. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-050, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-060 Additional timing considerations.** (1) Department staff receiving a permit application will determine whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the staff person should ask the applicant to complete an environmental checklist. A checklist is not needed if the department and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application. The applicant should also complete an environmental checklist if the staff person is unsure whether the proposal is exempt.

(2) Department staff receiving a completed permit application and environmental checklist should determine whether WDOE or another agency is SEPA lead agency (see WAC 197-11-050 and 197-11-922 through 197-11-940) within five working days. If WDOE is not the lead agency, the staff person shall send the completed environmental checklist, a copy of the permit application, to the lead agency, and an explanation of the determination to the identified lead agency.

(3) When the department has prepared a draft regulation, the draft EIS or determination of nonsignificance (DNS) shall accompany the draft regulation to the ecological commission for its review.

(4) If the only nonexempt action is department approval of detailed project plans and specifications, an applicant may request that the department complete SEPA compliance before the applicant submits the detailed plans and specifications. If the applicant asks for early environmental review, the department shall complete such review at the final engineering report stage, but not earlier.

(5) Whenever possible, the department shall coordinate the comment periods for environmental documents and the planning documents and/or regulations for which they were written, circulating both documents together. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-060, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-070 Threshold determination process—Additional considerations.** When reviewing a completed environmental checklist to make the threshold determination, the responsible official or his designee will:

(1) Independently evaluate the responses of the applicant and note comments, concerns, corrections, or new information in the right margin of the checklist.

(2) Conduct the initial review of the checklist and any supporting documents without requiring additional information from the applicant. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-070, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-080 Mitigated DNS.** (1) An applicant may ask the department whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(c) Precede the department's actual threshold determination for the proposal.

(2) The responsible official or his designee shall respond to the request within ten working days of receipt of the letter; the response shall:

(a) Be written;

(b) State whether the department is considering issuance of a DS;

(c) Indicate the general or specific area(s) of concern that led the department to consider a DS; and

(d) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The department shall not continue with the threshold determination until after receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the department will make its threshold determination based on the changed or clarified proposal.

(a) If the department's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the department shall issue a determination of nonsignificance and circulate the DNS for comments as in WAC 197-11-350(2).

(b) If the department indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the department shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The department may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the department shall issue a DNS and circulate it for review under WAC 197-11-350(2).

(6) When an applicant changes or clarifies the proposal, the clarifications or changes may be included in written attachments to the documents already submitted.

If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s), the department may require the applicant to submit a new checklist.

(7) The department may change or clarify features of its own proposals before making the threshold determination.

(8) The department's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the department to consider the clarifications or changes in its threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes, including enforcement of the permit or other approval. Unless the department's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-080, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-090 EIS preparation.** (1) Preparation of draft and final EISs and SEISs is the responsibility of the environmental review section. Before the department issues an EIS, the responsible official shall be satisfied that it complies with these rules and chapter 197-11 WAC.

(2) The department normally will prepare its own draft and final EISs. It may require an applicant to provide information that the department does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under these rules.

(3) If the department would be unable to prepare a draft and/or final EIS due to its commitments or other constraints or when a local agency transfers lead agency status to the department under WAC 197-11-940, the department may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:

(a) The department retains a mutually agreed upon and independent outside party to prepare the document.

(b) The applicant and the department agree upon a method of funding in which the applicant will bear the expense of the EIS preparation, but the consultant will work directly for the department.

(c) The outside party will prepare the document under the supervision of the environmental review section and the responsible official.

(d) Normally, the department will print and distribute the documents.

(4) Whenever someone other than the department prepares a draft or final EIS, the department shall:

(a) Direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by any agency or person.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.

(d) Allow the person preparing the EIS access to department records relating to the EIS (under chapter 42.17 RCW—Public disclosure and public records law). [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-090, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-100 Public notice requirements.** (1) The department shall give public notice when issuing a DNS under WAC 197-11-350(2), a scoping notice under WAC 173-802-090, or a draft EIS under WAC 197-11-455.

(2) Whenever possible, the department shall integrate the public notice required under this section with existing notice procedures for the department's permit or approval required for the proposal.

(a) When more than one permit or approval required from the department has public notice requirements, the notice procedures that would reach the widest audience should be used, if possible.

(b) If the public notice requirements for the permit or approval must be completed at a specific time in the permitting process and that timing does not coincide with the timing requirements for SEPA public notice, the department must use one or more public notice methods in subsection (4) of this section.

(c) If there are no public notice requirements for any of the permits/approvals required for a proposal, the department must use one or more public notice methods in subsection (4) of this section.

(3) The department may require an applicant to perform the public notice requirement at his or her expense.

(4) The department shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Mailing to persons or groups who have expressed interest in the proposal, that type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-100, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-110 Policies and procedures for conditioning or denying permits or other approvals.**

(1)(a) The overriding policy of the department of ecology is to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department of ecology shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(d) The department shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.

(2)(a) When the environmental document for a proposal shows it will cause significant adverse impacts that the proponent does not plan to mitigate, the responsible official shall consider whether:

(i) The environmental document identified mitigation measures that are reasonable and capable of being accomplished;

(ii) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and

(iii) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(b) The responsible official may:

(i) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(ii) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(c) The procedures in WAC 197-11-660 must also be followed when conditioning or denying permits or other approvals. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-110, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-120 Environmentally sensitive areas.**

(1) In determining whether a proposal is exempt from SEPA, the department shall respect "environmentally sensitive area" designations made by local governments under WAC 197-11-908.

(2) The department shall maintain files of the maps and SEPA procedures that cities/counties must send to the department under WAC 197-11-908. The department shall allow the public, groups, and agencies to review these SEPA procedures and maps during normal business hours. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-120, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-130 Threshold levels adopted by cities/counties.** (1) In determining whether a proposal is exempt from SEPA, the department shall respect the threshold levels adopted by cities/counties under WAC 197-11-800(1).

(2) The department shall maintain files of the SEPA procedures that cities/counties must send to the department under WAC 197-11-800 (1)(c). The department shall allow the public, groups, and agencies access to these SEPA procedures during normal business hours. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-130, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-140 Responsibilities of individuals and work units within the department.** (1) The environmental review section of the department shall be responsible for the following:

(a) Coordinating agency activities to comply with SEPA, encouraging consistency in SEPA compliance among all regions and programs.

(b) Providing information and guidance on SEPA and the SEPA rules to department staff, agencies, groups, and citizens.

(c) Receiving all SEPA documents sent to the department for review and comment, distributing documents and coordinating review with appropriate regions and programs, preparing the department's response, ensuring a timely response, and requesting extensions to the comment period of an EIS, when needed.

(d) Preparing and publishing the SEPA register weekly as required under WAC 197-11-508.

(e) Maintaining the department's files for EISs, DNSs, scoping notices, and notices of action sent to the department under SEPA and the SEPA rules.

(f) Maintaining files for the city/county SEPA procedures designating environmentally sensitive areas and flexible thresholds and making the information available to department staff and the public.

(g) Writing and/or coordinating EIS preparation, including scoping and the scoping notice, making sure to work with appropriate regions and programs.

(h) Preparing for, coordinating, and presenting annual SEPA workshops and publishing an annual SEPA handbook.

(i) Publishing and distributing the SEPA rules and amending the SEPA rules, as necessary.

(j) Responding to petitions for changes in exemptions from SEPA.

(k) Responding to petitions to resolve lead agency disputes.

(1) Fulfilling the department's other general responsibilities under SEPA and the SEPA rules.

(2) Regional offices and programs of the department shall be responsible for the following:

(a) Determining whether their decision on a permit or other approval, program, policy, plan, or regulation is an "action" under SEPA and, if so, whether it is exempt from SEPA's requirements (the first department official contacted may make these determinations).

(b) Determining whether WDOE or another agency is SEPA lead agency, contacting the environmental review section if there is a question about which agency is the lead agency.

(c) Making the threshold determination (made by the responsible official, see WAC 173-802-050).

(i) Issuing a determination of nonsignificance, if appropriate (issued by responsible official) and ensuring compliance with the public notice requirements of WAC 173-802-100; or

(ii) Contacting the environmental review section if a determination of significance is appropriate.

(d) Reviewing SEPA documents and submitting comments to the environmental review section in a timely fashion, recognizing that SEPA and the SEPA rules impose strict time limits on commenting.

(e) Working with the environmental review section on preparation of EISs.

(f) Ensuring that permit decisions are consistent with the final EIS and DNS. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-140, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-150 Coordination on combined department--Federal action.** When the department is considering an action which also involves federal actions, it shall attempt to coordinate the two governmental processes so that only one environmental impact statement need be prepared for that proposal. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-150, filed 6/15/84. Formerly chapter 173-801 WAC.]

**WAC 173-802-190 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. [Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order

DE 84-21), § 173-802-190, filed 6/15/84. Formerly chapter 173-801 WAC.]

### Chapter 173-805 WAC

#### MODEL ORDINANCE FOR USE IN INTEGRATION OF SEPA GUIDELINES

##### WAC

173-805-010 through 173-805-140 Repealed.

##### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-805-010 Policies and authority. [Order DE 76-13, § 173-805-010, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-010.
- 173-805-020 Adoption by reference. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-020, filed 4/4/78; Order DE 76-13, § 173-805-020, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-020, 173-806-065, 173-806-110, 173-806-128, 173-806-150, 173-806-155, 173-806-175, 173-806-180, 173-806-185 and 173-806-230.
- 173-805-030 Additional definitions. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-030, filed 4/4/78; Order DE 76-13, § 173-805-030, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-030.
- 173-805-040 Time limits applicable to the SEPA process. [Order DE 76-13, § 173-805-040, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-055.
- 173-805-050 Environmentally sensitive areas. [Order DE 76-13, § 173-805-050, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-190.
- 173-805-060 Use of exemptions. [Order DE 76-13, § 173-805-060, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-080.
- 173-805-070 Lead agency determination and responsibilities. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-070, filed 4/4/78; Order DE 76-13, § 173-805-070, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-050.
- 173-805-080 Transfer of lead agency status to a state agency. [Order DE 76-13, § 173-805-080, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-053.
- 173-805-090 Environmental checklist. [Order DE 76-13, § 173-805-090, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-090.
- 173-805-100 Preparation of EIS. [Order DE 76-13, § 173-805-100, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-120.
- 173-805-105 Additional elements to be covered in an EIS. [Order DE 76-13, § 173-805-105, filed 6/8/76.] Repealed

by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-125.

- 173-805-110 Designation of official to perform consulted agency responsibilities for the city/county. [Order DE 76-13, § 173-805-110, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-140.
- 173-805-115 Designation of responsible official. [Order DE 76-13, § 173-805-115, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-040.
- 173-805-120 (Optional) SEPA public information center. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-120, filed 4/4/78; Order DE 76-13, § 173-805-120, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130.
- 173-805-121 Responsibility of agencies—SEPA public information. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-121, filed 4/4/78.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130.
- 173-805-130 Fees. [Statutory Authority: RCW 43.21C.130. 78-04-091 (Order DE 78-6), § 173-805-130, filed 4/4/78; Order DE 76-13, § 173-805-130, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-200.
- 173-805-135 Notice/statute of limitations. [Order DE 76-13, § 173-805-135, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-173.
- 173-805-140 Severability. [Order DE 76-13, § 173-805-140, filed 6/8/76.] Repealed by 84-13-036 (Order DE 84-25), filed 6/15/84. Statutory Authority: RCW 43.21C.130. Later promulgation, see WAC 173-806-220.

**WAC 173-805-010 through 173-805-140 Repealed.**  
See Disposition Table at beginning of this chapter.

### Chapter 173-806 WAC MODEL ORDINANCE

##### WAC

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- 173-806-010 Authority.

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- 173-806-020 Purpose of this part and adoption by reference.  
173-806-030 Additional definitions.  
173-806-040 Designation of responsible official.  
173-806-050 Lead agency determination and responsibilities.  
173-806-053 Transfer of lead agency status to a state agency.  
173-806-055 Additional considerations in time limits applicable to the SEPA process.  
173-806-058 Additional timing considerations.

##### PART THREE CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

- 173-806-065 Purpose of this part and adoption by reference.  
173-806-070 Flexible thresholds for categorical exemptions.  
173-806-080 Use of exemptions.  
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PART FOUR

ENVIRONMENTAL IMPACT STATEMENT (EIS)

- 173-806-110 Purpose of this part and adoption by reference.
- 173-806-120 Preparation of EIS—Additional considerations.
- 173-806-125 Additional elements to be covered in an EIS.

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- 173-806-128 Adoption by reference.
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- 173-806-150 Purpose of this part and adoption by reference.

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- 173-806-160 Substantive authority.
- 173-806-170 Appeals.
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- 173-806-175 Purpose of this part and adoption by reference.

PART NINE  
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- 173-806-180 Adoption by reference.

PART TEN  
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- 173-806-185 Purpose of this part and adoption by reference.
- 173-806-190 Environmentally sensitive areas.
- 173-806-200 Fees.
- 173-806-205 Effective date.
- 173-806-220 Severability.

PART ELEVEN  
FORMS

- 173-806-230 Adoption by reference.

PART ONE  
AUTHORITY

**WAC 173-806-010 Authority.** The city/county of \_\_\_\_\_ adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.

This ordinance contains this city's/county's SEPA procedures and policies.

The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-010, filed 6/15/84. Formerly WAC 173-805-010.]

PART TWO  
GENERAL REQUIREMENTS

**WAC 173-806-020 Purpose of this part and adoption by reference.** This part contains the basic requirements that apply to the SEPA process. The city/county adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

- 197-11-040 Definitions.

- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-020, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-030 Additional definitions.** In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise:

(1) "Department" means any division, subdivision or organizational unit of the city/county established by ordinance, rule, or order.

(2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.

(3) "Ordinance" means the ordinance, resolution, or other procedure used by the city/county to adopt regulatory requirements.

(4) "Early notice" means the city's/county's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures). [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-030, filed 6/15/84. Formerly WAC 173-805-030.]

**WAC 173-806-040 Designation of responsible official.** (1) (Note: Use Option 1 or 2, but not both.) (Option 1) For those proposals for which the city/county is the lead agency, the responsible official shall be (Note: Indicate position title, level within city's/county's organization, elected official title or legislative body) \_\_\_\_\_.

(Option 2) For public proposals, the head (administrative official) of the department making the proposal shall be the responsible official. For private proposals, the head (administrative official) of the department with primary responsibility for approving the permits and licenses for the proposal shall be the responsible official. When multiple officials have permitting authority, the assignment of responsibility shall be reached by agreement.

(2) For all proposals for which the city/county is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.

(3) The city/county shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW. [Statutory Authority: RCW 43.21C.130. 84-13-



036 (Order DE 84-25), § 173-806-040, filed 6/15/84. Formerly WAC 173-805-115.]

**WAC 173-806-050 Lead agency determination and responsibilities.** (1) The department within the city/county receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

(2) When the city/county is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

(3) When the city/county is not the lead agency for a proposal, all departments of the city/county shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city/county department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city/county may conduct supplemental environmental review under WAC 197-11-600.

(4) If the city/county or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the city/county must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the city/county may be initiated by \_\_\_\_\_.

(5) Departments of the city/county are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: *Provided*, That the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (That is: Which agencies require nonexempt licenses?). [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-050, filed 6/15/84. Formerly WAC 173-805-070.]

**WAC 173-806-053 Transfer of lead agency status to a state agency.** (*Optional for cities or towns under 5,000 population and counties of fifth through ninth class.*) For any proposal for a private project where the city/county would be the lead agency and for which one or more state agencies have jurisdiction, the city's/county's responsible official may elect to transfer the

lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the city/county shall be an agency with jurisdiction. To transfer lead agency duties, the city's/county's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the city/county shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-053, filed 6/15/84. Formerly WAC 173-805-053.]

**WAC 173-806-055 Additional considerations in time limits applicable to the SEPA process.** The following time limits (expressed in calendar days) shall apply when the city/county processes licenses for all private projects and those governmental proposals submitted to the city/county by other agencies:

(1) (*Optional. Not required under act or rules.*) Categorical exemptions. The city/county shall identify whether an action is categorically exempt within seven days of receiving a completed application.

(2) Threshold determinations.

(a) (*Optional. Further clarification of fifteen-day period for threshold determination.*) The city/county should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of the date an applicant's adequate application and completed checklist are submitted.

(b) (*Optional. Not required.*) When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

(i) The city/county should request such further information within fifteen days of receiving an adequate application and completed environmental checklist;

(ii) The city/county shall wait no longer than thirty days for a consulted agency to respond;

(iii) The responsible official should complete the threshold determination within fifteen days of receiving the requested information from the applicant or the consulted agency.

(c) (*Optional. Not required.*) When the city/county must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city/county should complete the studies within thirty days of receiving an adequate application and a completed checklist.

(d) (*Optional.*) The city/county shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen days of receiving an adequate application and completed checklist. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-055, filed 6/15/84. Formerly WAC 173-805-040.]

**WAC 173-806-058 Additional timing considerations.** (1) For nonexempt proposals, the DNS or (Note: *Select either draft or final EIS.*) \_\_\_\_\_ EIS for the proposal shall accompany the city's/county's staff recommendation to any appropriate advisory body, such as the planning commission.

(2) If the city's/county's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city/county conduct environmental review prior to submission of the detailed plans and specifications. (Note: *The following may be added.*) The point at which environmental review may be initiated for specific permits or other licenses requiring detailed project plans and specifications is \_\_\_\_\_. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-058, filed 6/15/84. Formerly chapter 173-805 WAC.]

**PART THREE  
CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS**

**WAC 173-806-065 Purpose of this part and adoption by reference.** This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The city/county adopts the following sections by reference, as supplemented in this part:

**WAC**

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-065, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-070 Flexible thresholds for categorical exemptions.** (Note: *This section is optional. The lowest exempt level in the ranges below apply unless the city/county raises the level based on local conditions, such as previous DNSs on the activities or city/county development codes. The city/county may raise the level for an exemption to any point up to the maximum specified in WAC 197-11-800 (1)(c); once levels are established in this ordinance, the city/county must apply a*

*level to all projects within the geographic area to which the level applies.*) (1) \_\_\_\_\_ city/county establishes the following exempt levels for minor new construction under WAC 197-11-800 (1)(b) based on local conditions:

(a) For residential dwelling units in WAC 197-11-800 (1)(b)(i) (Note: *Range 4 - 20 units*): Up to \_\_\_\_\_ dwelling units.

(b) For agricultural structures in WAC 197-11-800 (1)(b)(ii) (Note: *Range 10,000 - 30,000 square feet*): Up to \_\_\_\_\_ square feet.

(c) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800 (1)(b)(iii) (Note: *Range 4,000 - 12,000 square feet and 20 - 40 parking spaces*): Up to \_\_\_\_\_ square feet and up to \_\_\_\_\_ parking spaces.

(d) For parking lots in WAC 197-11-800 (1)(b)(iv) (Note: *Range 20 - 40 parking spaces*): Up to \_\_\_\_\_ parking spaces.

(e) For landfills and excavations in WAC 197-11-800 (1)(b)(v) (Note: *Range 100 - 500 cubic yards*): Up to \_\_\_\_\_ cubic yards.

(2) Whenever the city/county establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800 (1)(c). [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-070, filed 6/15/84. Formerly chapter 173-805 WAC.]

**WAC 173-806-080 Use of exemptions.** (1) Each department within the city/county that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The city/county shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the city/county may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

- (a) The city/county shall not give authorization for:
  - (i) Any nonexempt action;
  - (ii) Any action that would have an adverse environmental impact; or
  - (iii) Any action that would limit the choice of alternatives.

(b) A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-080, filed 6/15/84. Formerly WAC 173-805-060.]

**WAC 173-806-090 Environmental checklist.** (1) *(Use Option 1 or 2, but not both) (Option 1, using checklist from the rules without changes.)* A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; except, a checklist is not needed if the city/county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city/county shall use the environmental checklist to determine the lead agency and, if the city/county is the lead agency, for determining the responsible official and for making the threshold determination.

*(Option 2, adding questions to the checklist.)* A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the city/county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960 with the following additions: *(Indicate city's/county's additions.)* \_\_\_\_\_.

(2) For private proposals, the city/county will require the applicant to complete the environmental checklist, providing assistance as necessary. For city/county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) *(Optional.)* The city/county may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs: *(Either one or both of the following may be included.)*

(a) The city/county has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-090, filed 6/15/84. Formerly WAC 173-805-090.]

**WAC 173-806-100 Mitigated DNS.** (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on

changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the city's/county's actual threshold determination for the proposal.

(3) The responsible official should respond to the request for early notice within \_\_\_\_\_ working days. The response shall:

(a) Be written;

(b) State whether the city/county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the city/county to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the city/county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city/county shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:

(a) If the city/county indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city/county shall issue and circulate a DNS under WAC 197-11-340(2).

(b) If the city/county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city/county shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city/county.

(8) If the city's/county's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city/county should evaluate the threshold determination to assure consistency with WAC 197-11-340 (3)(a) (withdrawal of DNS).

(9) The city's/county's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city/county to consider the clarifications or changes in its threshold determination. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-100, filed 6/15/84. Formerly chapter 173-805 WAC.]

#### PART FOUR ENVIRONMENTAL IMPACT STATEMENT (EIS)

**WAC 173-806-110 Purpose of this part and adoption by reference.** This part contains the rules for preparing environmental impact statements. The city/county adopts the following sections by reference, as supplemented by this part:

##### WAC

- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping. (Optional)
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.
- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.
- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-455 Issuance of DEIS.
- 197-11-460 Issuance of FEIS.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-110, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-120 Preparation of EIS--Additional considerations.** (1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of (*department*) under the direction of the responsible official. Before the city/county issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by city/county staff, the applicant, or by a

consultant selected by the city/county or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city/county will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's/county's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(3) The city/county may require an applicant to provide information the city/county does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the city/county may request under another ordinance or statute.) [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-120, filed 6/15/84. Formerly WAC 173-805-100.]

**WAC 173-806-125 Additional elements to be covered in an EIS.** (*This entire section is optional. If used, you may select any of the listed elements or add your own.*) The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this ordinance:

(1) Economy.

(2) Social policy analysis.

(3) Cost-benefit analysis. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-125, filed 6/15/84. Formerly WAC 173-805-105.]

#### PART FIVE COMMENTING

**WAC 173-806-128 Adoption by reference.** This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city/county adopts the following sections by reference, as supplemented in this part:

##### WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-128, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-130 Public notice.** (*This section is required. Subsections (1) and (2) of this section may be*

combined.) (1) Whenever \_\_\_\_\_ city/county issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the city/county shall give public notice as follows:

(a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

(b) If no public notice is required for the permit or approval, the city/county shall give notice of the DNS or DS by: (*Note: Select at least one of the following*)

(i) Posting the property, for site-specific proposals;

(ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

(v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas);

(vii) (*or, specify other method*) \_\_\_\_\_.

(c) Whenever the city/county issues a DS under WAC 197-11-360(3), the city/county shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(2) Whenever the city/county issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and (*Note: In addition select at least one of the following or insert all of the list and require that at least one method be used.*)

(b) Posting the property, for site-specific proposals;

(c) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(d) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(e) Notifying the news media;

(f) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(g) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas); (*and/or*)

(h) (*specify other*) \_\_\_\_\_.

(3) Whenever possible, the city/county shall integrate the public notice required under this section with existing notice procedures for the city's/county's nonexempt permit(s) or approval(s) required for the proposal.

(4) The city/county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. [Statutory Authority: RCW 43.21C.130, 84-13-036 (Order DE 84-25), § 173-806-130, filed 6/15/84. Formerly chapter 173-805 WAC.]

**WAC 173-806-140 Designation of official to perform consulted agency responsibilities for the city/county.** (1) The \_\_\_\_\_ (*position title, department, or office*) shall be responsible for preparation of written comments for the city/county in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(2) This (*person, department or office*) shall be responsible for the city's/county's compliance with WAC 197-11-550 whenever the city/county is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city/county. [Statutory Authority: RCW 43.21C.130, 84-13-036 (Order DE 84-25), § 173-806-140, filed 6/15/84. Formerly WAC 173-805-110.]

## PART SIX USING EXISTING ENVIRONMENTAL DOCUMENTS

**WAC 173-806-150 Purpose of this part and adoption by reference.** This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the city's/county's own environmental compliance. The city/county adopts the following sections by reference:

WAC

- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement—Procedures.
- 197-11-625 Addenda—Procedures.
- 197-11-630 Adoption—Procedures.
- 197-11-635 Incorporation by reference—Procedures.
- 197-11-640 Combining documents.

[Statutory Authority: RCW 43.21C.130, 84-13-036 (Order DE 84-25), § 173-806-150, filed 6/15/84. Formerly WAC 173-805-020.]

## PART SEVEN SEPA AND AGENCY DECISIONS

**WAC 173-806-155 Purpose of this part and adoption by reference.** This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The city/county adopts the following sections by reference:

WAC

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-155, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-160 Substantive authority.** (1) The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the city of \_\_\_\_\_ / \_\_\_\_\_ county.

(2) The (city/county) may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The city/county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The (city/county) may deny a permit or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.

(4) The city/county designates and adopts by reference the following policies as the basis for the city's/county's exercise of authority pursuant to this section:

(a) The city/county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) The city/county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(c) (Optional.) The city/county adopts by reference the policies in the following city/county (codes, ordinances, resolutions, plans) \_\_\_\_\_: (List the codes, ordinances, resolutions, or plans you have selected, such as zoning ordinance, building codes or comprehensive plans.) \_\_\_\_\_.

(d) (Optional.) The city/county establishes the following additional policies: \_\_\_\_\_.

(5) (Note: Required by RCW 43.21C.060, unless the city/county council/commission elects to eliminate such appeals and states so in this ordinance.) Except for permits and variances issued pursuant to chapter \_\_\_\_\_ of the city/county code (chapter relating to shoreline management), when any proposal or action not requiring a decision of the city/county council/commission is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city/county council/commission. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the city/county council/commission shall be on a de novo basis. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-160, filed 6/15/84. Formerly chapter 173-805 WAC.]

**WAC 173-806-170 Appeals.** (1) (Agency administrative appeal is optional. If allowed, the statute requires that all of this subsection be included, except (c) of this subsection which is optional.) \_\_\_\_\_ city/county establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(a) Any agency or person may appeal the city's/county's procedural compliance with chapter 197-11 WAC for issuance of the following: (Note: Select one or more.)

(i) A final DNS: (Note: Choose one of the following options.)

(Option 1) Appeal of the DNS must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the date the DNS is final (see WAC 197-11-390 (2)(a)).

(Option 2) Appeal of the DNS must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the date the DNS is final. Appeal of the substantive determination on the action must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the issuance of the permit or other license.

(Option 3) Appeal of the (city/county must specify DNS, substantive determination on action, or both. If both are allowed, they must be consolidated.) must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the date the permit or other approval is issued.

(ii) A DS: The appeal must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the date the DS is issued.

(iii) An EIS: Appeal of the (*city/county must specify FEIS, substantive determination on the action, or both. If both are allowed, they must be consolidated*) \_\_\_\_\_ must be made to \_\_\_\_\_ within \_\_\_\_\_ days of the date the permit or other approval is issued.

(b) For any appeal under this subsection, the city/county shall provide for a record that shall consist of the following:

- (i) Findings and conclusions;
- (ii) Testimony under oath; and
- (iii) A taped or written transcript.

(c) (*Optional.*) The city/county may require the appellant to provide an electronic transcript.

(d) The procedural determination by the city's/county's responsible official shall carry substantial weight in any appeal proceeding.

(2) The city/county shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. (*The following is optional.*) The following permits or approvals require official notice: \_\_\_\_\_. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-170, filed 6/15/84. Formerly chapter 173-805 WAC.]

**WAC 173-806-173 Notice/statute of limitations.** (*Optional.*) (1) The city/county, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk or county auditor, applicant or proponent pursuant to RCW 43.21C.080. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-173, filed 6/15/84. Formerly WAC 173-805-135.]

## PART EIGHT DEFINITIONS

**WAC 173-806-175 Purpose of this part and adoption by reference.** This part contains uniform usage and definitions of terms under SEPA. The city/county adopts the following sections by reference, as supplemented by WAC 173-806-040:

### WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.

197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-748	Environmentally sensitive area.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-175, filed 6/15/84. Formerly WAC 173-805-020.]

## PART NINE CATEGORICAL EXEMPTIONS

**WAC 173-806-180 Adoption by reference.** The city/county adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):

### WAC

197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-890	Petitioning DOE to change exemptions.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-180, filed 6/15/84. Formerly WAC 173-805-020.]

**PART TEN  
AGENCY COMPLIANCE**

**WAC 173-806-185 Purpose of this part and adoption by reference.** This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The city/county adopts the following sections by reference, as supplemented by WAC 173-806-045 through 173-806-043 and this part:

**WAC**

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-185, filed 6/15/84. Formerly WAC 173-805-020.]

**WAC 173-806-190 Environmentally sensitive areas.** (Optional. If used, all subsections must be included.) (1) (Use Option 1 or 2, but not both.)

(Option 1: If maps have been prepared.) The map(s) filed under \_\_\_\_\_ designate the location of environmentally sensitive areas within the city/county and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are: \_\_\_\_\_. Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city/county.

(Option 2: If environmentally sensitive areas have not been designated.) \_\_\_\_\_ shall designate environmentally sensitive areas under the standards of WAC

197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with \_\_\_\_\_ and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.

(2) The city/county shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, making a threshold determination for all such proposals. The city/county shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

(3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-190, filed 6/15/84. Formerly WAC 173-805-050.]

**WAC 173-806-200 Fees.** (This entire section is optional. You may use any or none of subsections (1), (2) or (4) of this section but you must use subsection (3) of this section if other subsections are used.) The city/county shall require the following fees for its activities in accordance with the provisions of this ordinance:

(1) Threshold determination. For every environmental checklist the city/county will review when it is lead agency, the city/county shall collect a fee of (\$50.00 or enter a different amount) \_\_\_\_\_ from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee. (Note: The following option may be added: When the city/county completes the environmental checklist at the applicant's request or under WAC 173-806-090(3) of this ordinance, an additional \$ \_\_\_\_\_ shall be collected.)

(2) Environmental impact statement.

(a) When the city/county is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city/county, the city/county may charge and collect a reasonable fee from any applicant to cover costs incurred by the city/county in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the city/county will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city/county and may bill such costs and expenses directly to the applicant. The city/county may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city/county and applicant after a call for proposals.



(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.

(3) The city/county may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(4) The city/county shall not collect a fee for performing its duties as a consulted agency.

(5) The city/county may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-200, filed 6/15/84. Formerly WAC 173-805-130.]

**WAC 173-806-205 Effective date.** (Optional.) The effective date of this ordinance is \_\_\_\_\_. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-205, filed 6/15/84. Formerly chapter 173-805 WAC.]

**WAC 173-806-220 Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected. [Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-220, filed 6/15/84. Formerly WAC 173-805-140.]

## PART ELEVEN FORMS

**WAC 173-806-230 Adoption by reference.** The city/county adopts the following forms and sections by reference:

### WAC

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-230, filed 6/15/84. Formerly WAC 173-805-020.]

## Title 174 WAC THE EVERGREEN STATE COLLEGE

### Chapters

- 174-104 Regular and special meetings of the board of trustees.**
- 174-107 Governance and decision making.**

- 174-109 Affirmative action policy.**
- 174-116 Parking and traffic rules.**

### Chapter 174-104 WAC

#### REGULAR AND SPECIAL MEETINGS OF THE BOARD OF TRUSTEES

### WAC

- 174-104-010 Regular meetings.

**WAC 174-104-010 Regular meetings.** A regular meeting of the board of trustees shall be held unless dispensed with by the board of trustees, on the campus of The Evergreen State College beginning at 1:30 p.m. on the second Wednesday of the following months: February, April, June, August, October, December. When such Wednesday shall be a legal holiday, the meeting shall be held on the Thursday immediately following such second Wednesday. [Statutory Authority: RCW 28B.40.120(11). 85-10-049 (Order 85-2, Resolution No. 85-14), § 174-104-010, filed 4/30/85, effective 6/1/85; 84-14-025 (Order 84-1, Resolution No. 84-20), § 174-104-010, filed 6/26/84; 82-10-035 (Order 82-1, Motion No. 82-9), § 174-104-010, filed 4/30/82; 78-05-008 (Order 78-1, Resolution Motion 78-7), § 174-104-010, filed 4/7/78; Order 72-3, § 174-104-010, filed 10/27/72.]

### Chapter 174-107 WAC

#### GOVERNANCE AND DECISION MAKING

### WAC

- 174-107-230 Repealed.
- 174-107-240 Repealed.
- 174-107-250 Repealed.
- 174-107-260 Repealed.
- 174-107-270 Repealed.
- 174-107-280 Repealed.
- 174-107-290 Repealed.
- 174-107-300 Repealed.
- 174-107-310 Repealed.
- 174-107-320 Repealed.
- 174-107-330 Repealed.
- 174-107-340 Repealed.
- 174-107-350 Repealed.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 174-107-230 Implementation of governance policies and procedures: The Evergreen council. [Statutory Authority: RCW 28B.40.120(11). 83-16-009 (Order 83-3, Resolution No. 83-32), § 174-107-230, filed 7/22/83.] Repealed by 85-21-051 (Order 85-3, Resolution No. 85-32), filed 10/15/85, effective 1/1/86. Statutory Authority: RCW 28B.40.120(11).
- 174-107-240 The Evergreen council—Membership. [Statutory Authority: RCW 28B.40.120(11). 83-16-009 (Order 83-3, Resolution No. 83-32), § 174-107-240, filed 7/22/83.] Repealed by 85-21-051 (Order 85-3, Resolution No. 85-32), filed 10/15/85, effective 1/1/86. Statutory Authority: RCW 28B.40.120(11).
- 174-107-250 The Evergreen council—The executive committee. [Statutory Authority: RCW 28B.40.120(11). 83-16-009 (Order 83-3, Resolution No. 83-32), § 174-107-250, filed 7/22/83.] Repealed by 85-21-051 (Order