

**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 and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 C.F.R. 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities that 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. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will 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(8).

(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 (that is, not designated by 40 C.F.R. 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) The owner or operator of a facility managing recyclable materials described in WAC 173-303-120 (2), (3), and (5) (except to the extent that they are referred to in WAC 173-303-515 or 173-303-505, 173-303-520, 173-303-525, or 40 C.F.R. Part 266, Subpart H);

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that they have a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(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 they have a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste on site in compliance with applicable conditions of WAC 173-303-171, 173-303-172, 173-303-174, 173-303-200 and 173-303-201;

(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 or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 and 173-303-201 for large quantity generators or WAC 173-303-172 for medium quantity generators, and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 and 173-303-201 for large quantity generators or WAC 173-303-172 for medium quantity generators and WAC 173-303-395 (1) (a) and (b);

(viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with WAC 173-303-170 (2) (b);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 C.F.R. section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1) (a); and

(x) 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.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2);

(B) Mercury-containing equipment as described in WAC 173-303-573(3); and

(C) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;

(II) An imminent and substantial threat of a discharge of dangerous waste;

(III) A discharge of a material that, when discharged, becomes a dangerous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(xiv) The owner or operator of a facility that is permitted to manage solid waste pursuant to chapter 173-350 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-171.

(xv) A farmer disposing of waste pesticides from their own use provided they comply with WAC 173-303-160 (2) (b).

(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 C.F.R. Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 C.F.R. Parts 60, 61, and 63), DD, EE, and Appendix VI, 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), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7);

(iii) WAC 173-303-640 (5) (d), for tanks;

(iv) WAC 173-303-805;

(v) WAC 173-303-060;

(vi) WAC 173-303-320; and

(vii) WAC 173-303-370.

(b) For purposes of applying the interim status standards of 40 C.F.R. Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 C.F.R. Parts 270.2; 270.3; 270.5; 270.10 (e) (1), (2) and (4); 270.10 (f) and (g); 270.11 (a) (3); 270.14 (b) (20); 270.32 (b) (2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, CC, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers";

(v) "At least weekly, owners and operators must inspect" means "weekly inspections" as defined in WAC 173-303-040.

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 C.F.R. Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:

(i) The words "the effective date of these regulations" means:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 C.F.R. Part 261;

(B) For wastes which become designated by 40 C.F.R. Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 C.F.R. Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 C.F.R. Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 C.F.R. Parts 260.1 (b) (4)-(6) and 260.20-22.

(B) 40 C.F.R. Parts 264.1 (d) and (f); 265.1 (c) (4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 C.F.R. Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 (a) through (g).

(D) 40 C.F.R. Parts 270.1 (c) (1) (i); 270.60(b); and 270.64.

(E) 40 C.F.R. Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a) (1) (iv); 124.12(e); 124.14(d); 124.15 (b) (2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 C.F.R. Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.

(G) 40 C.F.R. 265.1080 (e) and (f).

(iii) Where 40 C.F.R. 265 Subparts F through R, W, DD, and EE have been incorporated by reference refer to 40 C.F.R. 260.11, data provided under this section must instead meet the requirements of WAC 173-303-110.

(iv) "Subpart B - general facility standards." References to "EPA" in 40 C.F.R. 265.19, means the "department." Additionally, references to "administrator" means the "director."

(v) "Subpart F - groundwater monitoring."

(A) Section 265.90 (d) (1) is modified by adding the following sentence. "A copy of the plan must be submitted to the department,"

(B) Section 265.90 (d) (3) is modified by adding the following sentence. "A copy of the plan must be submitted to the department,"

(C) Section 265.91(c) includes the requirement that: "Groundwater monitoring wells must 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",

(D) Section 265.93 (d) (2) is modified by adding the following sentence. "A copy of the plan must be submitted to the department," and

(E) Section 265.93 (d)(5) is modified by adding the following sentence. "A copy of the report must be submitted to the department within 15 days."

(vi) "Subpart G - closure and post-closure."

(A) The third sentence in section 265.112 (d)(1) is modified to read "The owner or operator must submit the closure plan to the department at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final closure of a facility with only such units."

(B) The sixth sentence of section 265.112 (d)(1) is modified to read "Owners or operators with approved closure plans must notify the department in writing at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final closure of a facility with only such units." The first sentence of section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure, the owner or operator must submit to the department, by registered mail or other means that establish proof of receipt (including appropriate electronic means), a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan." In addition, the cleanup levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(C) Section 265.113 (e)(5) is modified by changing "annual reports" to "semi-annual reports."

(D) Section 265.115 is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.120 is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(vii) "Subpart H - financial requirements."

(A) An additional sentence that 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 C.F.R. Part 265 Subpart H."

(B) In 40 C.F.R. Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state."

(C) Section 265.143(h) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(D) Section 265.145(h) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.147(e) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(F) The following sections and any cross-reference to these sections are not incorporated by reference: 40 C.F.R. Parts 265.149 and 265.150;

(viii) "Subpart I use and management of containers."

Section 265.174 is modified by replacing the paragraph with the following. "The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors."

(ix) "Subpart J - tank systems."

(A) Section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(B) Section 265.191(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(C) Section 265.191 (b) (5) (ii) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(D) Section 265.192(a) introductory text is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.192(b) introductory text is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(F) Section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4) (a).

(G) Section 265.193 (i) (2) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(H) Section 265.195(b) is modified by deleting the words "Except as noted under the paragraph (c) of this section."

(I) Section 265.195 is modified by deleting paragraphs (c) and (d).

(J) Section 265.196(f) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer" and by adding the following sentence. "A copy of the plan must be submitted to the department within seven days after returning the tank system to use."

(K) Section 265.201(c) is modified by deleting the words "Except as noted in paragraph (d) of this section."

(L) Section 265.201 is modified by deleting paragraphs (d) and (e).

(x) "Subpart K surface impoundments." Section 265.224(a) is modified by adding the following sentence. "A copy of the plan must be submitted to the department when submitting the proposed action leakage rate under section 265.222."

(xi) "Subpart L waste piles." Section 265.259(a) is modified by adding the following sentence. "A copy of the response action plan must be submitted to the department when submitting the proposed action leakage rate under section 265.255."

(xii) "Subpart M land treatment."

(A) Section 265.273(b) is modified by replacing the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(B) Section 265.280(e) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(xiii) "Subpart N - landfills."

(A) An additional sentence reads: "An owner/operator must not landfill an organic/carbonaceous waste or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford" as allowed under WAC 173-303-700 or as allowed under WAC 173-303-140(4).

(B) Section 265.303(a). "A copy of the response action plan must be submitted to the department when submitting the proposed action leakage rate under section 265.302."

(xiv) "Subpart O incinerators."

(xv) "Subpart P thermal treatment."

(xvi) "Subpart Q chemical, physical and biological treatment."

(xvii) "Subpart R - underground injection." An additional sentence reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100."

(xviii) "Subpart W drip pads."

(A) Section 265.441(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(B) Section 265.441(b) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(C) Section 265.441(c) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(D) Section 265.443 (a) (4) (ii) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.443(g) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(F) 265.444(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(xix) "Subpart AA air emission standards for process vents."

(xx) "Subpart BB air emission standards for equipment leaks."

(A) Section 265.1061 is modified by adding (d) "If an owner or operator decides no longer to comply with this section, the owner or operator must notify the department in writing that the work practice standard described in 265.1057 (a) through (e) will be followed."

(B) Section 265.1061(b) is modified by adding (b) (3) "An owner or operator must notify the department that the owner or operator has elected to comply with the requirements of this section."

(C) Section 265.1062(a) is modified by adding the sentence "An owner or operator must notify the department before implementing one of the alternative work practices."

(xxi) "Subpart CC air emission standards for tanks, surface impoundments, and containers."

(xxii) "Subpart DD containment buildings."

(A) Section 265.1101 (c) (2) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(B) Section 265.1101 (c) (3) (iii) is modified by changing "qualified registered professional engineer" to "independent qualified registered professional engineer."

(xxiii) "Subpart EE - hazardous waste munitions and explosives storage."

The first sentence at 40 C.F.R. 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 C.F.R. Part 268, and the 40 C.F.R. Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

[Statutory Authority: Chapters 70.105, 70.105D RCW and RCRA. WSR 19-04-038 (Order 16-03), § 173-303-400, filed 1/28/19, effective 4/28/19. Statutory Authority: Chapter 70.105 RCW. WSR 15-01-123 (Order 13-07), § 173-303-400, filed 12/18/14, effective 1/18/15. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 09-14-105 (Order 07-12), § 173-303-400, filed 6/30/09, effective 7/31/09. Statutory Authority: Chapters 70.105, 70.105D, and 15.54 RCW and RCW 70.105.007. WSR 04-24-065 (Order 03-10), § 173-303-400, filed 11/30/04, effective 1/1/05. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 03-07-049 (Order 02-03), § 173-303-400, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105, 70.105D, 15.54 RCW and RCW 70.105.007. WSR 00-11-040 (Order 99-01), § 173-303-400, filed 5/10/00, effective 6/10/00. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 98-03-018 (Order 97-03), § 173-303-400, filed 1/12/98, effective 2/12/98; WSR 95-22-008 (Order 94-30), § 173-303-400, filed 10/19/95, effective 11/19/95; WSR 94-01-060 (Order 92-33), § 173-303-400, filed 12/8/93, effective 1/8/94. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 C.F.R. Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). WSR 91-07-005 (Order 90-42), § 173-303-400, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. WSR 89-02-059 (Order 88-24), § 173-303-400, filed 1/4/89; WSR 88-02-057 (Order DE 83-36), § 173-303-400, filed 1/5/88, effective 2/5/88; WSR 87-14-029 (Order DE-87-4), § 173-303-400, filed 6/26/87; WSR 86-12-057 (Order DE-85-10), § 173-303-400, filed 6/3/86; WSR 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. WSR 82-05-023 (Order DE 81-33), § 173-303-400, filed 2/10/82.]