**CH2MHill Plateau Remediation Company (CHPRC) Comments on Ecology's Preliminary Draft Rule Changes to WAC 173-303 "Dangerous Waste Regulations" (using PDF file dated 10/10/2017)**

| Generator Improvement Rule Comments | | | | |
|---|---|---|---|---|
| **WAC Draft Rule pdf pg #** | **WAC Citation** | **Title** | **Applicable Text** | **Comment** |
| General | 173-303-169<br>173-303-171<br>173-303-172<br>173-303-173<br>173-303-174<br>173-303-200<br>173-303-210 | Reorganization of regulations | Not applicable | CHPRC is in favor of this proposed change since it will align with the new format in the Federal Regulations. |
| 34 | 173-303-040 | Accumulation | "Accumulation" refers to the definition of "storage." | In Ecology's Draft Amendments Summary, there is indication that EPA generation clarifications don't "change how the generator regulatory scheme and enforcement policy has operated over the last 30 years." However, CHPRC is concerned that this definition of accumulation as storage would eliminate the distinction between generator and TSD owner/operator management of waste. |
| 39 | 173-303-040 | "Central accumulation area" | | Ecology's Draft Amendments Summary indicates that EPA's generation clarifications don't "change how the generator regulatory scheme and enforcement policy has operated over the last 30 years." CHPRC is concerned that the revised definition of "central accumulation area" leaves too much uncertainty about its meaning. Please add language to this definition making clear that it is not intended to (1) denote a physical location, (2) require generators to establish a location that is centrally located within the site; or (3) limit the number of areas at a site. |
| 72 | 173-303-040 | "No free liquids" | "…and that there is no free liquid in the container holding the wipes." | The definition of "No free liquids" under this exclusion requires a paint filter test on wipes and then negates any benefit from the approach by requiring the container to remain free of residual liquid |

| | | | | |
|---|---|---|---|---|
| | | | | including liquid that may emanate during accumulation after the wipes have already passed the test. Liquids dripping from such wipes after successful testing for free liquids should not be subsequently considered a source of free liquids since the paint filter test is a 5-minute test as opposed to an ongoing test during weeks of accumulation.<br><br>To avoid confusion, CHPRC suggests addition of clarifying language that the exclusion is not compromised by placing absorbent in a container as a precaution to prevent accumulation of free liquids. |
| 77 | 173-303-040 | "point of generation" | "including both time and place" | Is the intent of this definition to track and document the time of day according to a clock that a waste was generated? If not, please make clear that the purpose of the point of generation concept is to perform the dangerous waste determination on a waste based on its properties and/or pedigree at the location in a process where it first becomes a material that no longer serves an intended purpose. Please also make clear that the requirement to physically perform the dangerous waste determination is not literally based on a "point in time". |
| 227 | 173-303-170(1)(a) | Requirements for generators of hazardous waste | "Condition for exemption" means any requirement in WAC 173-303-171 through 173-303-174, 173-303-200 through 173-303-201, 173-303-235 and also in WAC 173-303-160(2)(b) in reference to farmers, that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in WAC 173- | CHPRC is concerned that the proposed change of the definition for "condition for exemption" implies that if any generator condition for an exemption from any interim status or final status requirements is not met, then the generator loses the conditional exemption and is subject to all interim status or final status permit requirements and in violation if those permit requirements are not being met.<br><br>Based upon the description of "Conditions for exemption" in lieu of "Independent requirements" in Ecology's draft amendments summary, if a generator exceeds the ≤90-day accumulation time limit, they will be in violation of dozens of permit or interim |

| | | | | |
|---|---|---|---|---|
| | | | 303-400, 173-303-600, 173-303-800 and from any requirement for notification under WAC 173-303-060. | status requirements since the generator is no longer conditionally exempt from having a final status permit or interim status. Is this how Ecology intends to enforce this provision? This does not appear consistent with how the generator regulatory scheme and enforcement policy has operated over the last 30 years. |
| 280 | 173-303-174(1) | Satellite accumulation area regulations for medium quantity generators and large quantity generators. | "A generator may accumulate waste without a permit, or without complying with WAC 173-303-400, 173-303-600, 173-303-800 and 173-303-692, provided that all the conditions for exemption in this section are met." | Like the comments above state, this wording implies that if any satellite accumulation area (SAA) condition for an exemption from any interim status or final status requirements is not met, then the generator loses the conditional exemption and is subject to all interim status or final status permit requirements.<br><br>If a generator exceeds the SAA volume limit, will the generator be in violation of just that particular SAA regulation or will the generator also be in violation of dozens of permit violations since the generator is no longer conditionally exempt from having a final status permit or interim status? If this is how Ecology intends to enforce this provision, it does not appear consistent with how the generator regulatory scheme and enforcement policy has operated over the last 30 years. |
| 97 | 173-303-040 | Definitions | "Weekly inspections" means an inspection conducted no more than seven consecutive calendar days from the last inspection. | This comment is for WAC 173-303-040 but also applies to any other regulations in WAC 173-303 that reference the definition of weekly at WAC 173-303-040.<br><br>CHPRC is not in favor of this proposed change. There are elements of this proposal that would cause unwarranted operational difficulties, increase noncompliance absent environmental harm, and increase the cost of cleanup at Hanford.<br><br>• Operational efficiency - Hanford has a treatment, storage and disposal (TSD) Operating Unit |

| | | | | |
|---|---|---|---|---|
| | | | | Group (OUG) that as of the date of this comment, manages 10,417 containers of dangerous, low-level, and mixed waste. Currently the TSD OUG (the Central Waste Complex – CWC, and the Waste Receiving and Processing Unit - WRAP) inspect all 10,000+ containers during the 4-day work week (Monday – Thursday), usually starting on a Tuesday or Wednesday, but depending on other operational needs may be conducted on any of the 4 days during that calendar week. Because a majority of the waste also contains radiological constituents a crew of two qualified personnel are required to safely conduct the inspections. It takes the two-man crew about 3 days (50 to 60 hours) to inspect all containers at just the CWC. It takes one person approximately 1 day (10 hours) to inspect all containers at WRAP. CWC and WRAP combined are the OUG referenced above. Note that this team of inspectors also have other duties including shipping, receiving, and performing license and permit compliance activities. PRC estimates that an additional nine (9) full time employees (4 laborers, 2 radiation control technicians, 2 supervisors and 1 work control resource for tracking) would be required to comply with the new definition of weekly, which would be a tremendous financial, personnel and tracking burden and with no added benefit to HH&E.<br><br>• Compliance with the regulations should be achievable - Inspections conducted Monday through Thursday allows Hanford to compensate for:<br>• Adverse weather conditions - The Hanford site, like any other dangerous waste site, often experiences site closures due to snow, ice or high winds. As an actual example, during the 2016/2017 winter from December 14, 2016, to February 15, 2017, the |

| | | | | |
|---|---|---|---|---|
| | | | | Hanford Site North of the Wye Barricade was released early from work four (4) times, had delayed starts four (4) times and had work cancelled for the entire dayshift six (6) times. This represents a total of 14 work days impacted out of a grand total of 34 work days over that same period. Two work weeks (January 9th to 12th and January 16th to 19th) had only one full working day each week. With over 10,000 containers, completion of the inspections within an inflexible 7-day timeframe will not be possible. During that 9-week period, 7 weeks were impacted due to weather.<br><br>• Waste container deliveries (affected roads are closed and other unit operations are suspended during waste receipt),<br><br>• Other unexpected operational difficulties. Higher priority work could restrict the availability of specific workers on a given day.<br><br>• Ecology should either impose a less onerous definition of weekly, e.g., a calendar week like EPA's interpretation, or provide a mechanism for extensions or variances to the 7-day weekly inspection.<br><br>• Increased Number of Inspections to ensure Compliance - By requiring inspections to occur with no less than 7 days in between, if an inspection is conducted on a Tuesday of week 1, the second must be conducted on or before Tuesday of week 2. This means that if a TSD planned to conduct inspections on Thursday, but saw that weather impacts were likely |

| | | | | |
|---|---|---|---|---|
| | | | | and they moved their inspection up to say Tuesday, Eventually the TSD would have to conduct 2 inspections in a week to get back to a Thursday schedule. This could result in significantly more than 52 inspections in a year to avoid a non-compliant situation, with increased costs and employee exposure to radiation, and without providing added protection to human health or the environment (HH&E).<br><br>• Consistency with other regulations – At Hanford, the most significant risks are due to radiological constituents. Nuclear safety regulations require weekly inspections be performed any time during the calendar week and allow for a 25 percent extension period which begins the first day of the following week (Technical Safety Requirement). This limits the timeframe between inspections to no more than 9 days if the 25% extension is needed. There is no added benefit to HH&E to inspect dangerous waste constituents more frequently than radioactive waste constituents.<br><br>• Additional inspections do not protect HH&E - These additional inspections provide no additional protection to HH&E and could result in the inspection team receiving increased radiation exposures despite the significant worker precautions exercised during all inspection activities.<br><br>• Additional inspections increase the cost of cleanup – As discussed previously it takes up to three specialized individuals to conduct waste container inspections at just the CWC and WRAP, i.e., one operating group. At the largest TSD OUG, inspection of all 10,000+ containers takes 3 full working days. Any funding spent on additional inspections reduces |

| | | | | |
|---|---|---|---|---|
| | | | | the funding available to accomplish cleanup which does protect human health and the environment.<br><br>EPA provided guidance to the phrase "at least weekly in the Response to Comments Document on the Hazardous Waste Generator Improvements Final Rule, Docket # EPA-HQ-RCRA-2012-0121 stating that:<br><br>*"The Agency believes the term "at least weekly" to mean "at least once each calendar week." Under this interpretation, while the calendar day an inspection could occur may change from week to week, one inspection would be required to occur within the calendar week as identified by the generator. Thus one generator could define their calendar week as Monday through Sunday while another generator could define their calendar week as Wednesday to Tuesday of the following week. Whatever the prescribed calendar week would dictate the days an inspection would be required to occur."*<br><br>The EPA interpretation is reasonable at a large site like Hanford. The overall impact of Ecology's clarification of the term "weekly" would be the forced misuse taxpayer dollars performing activities that do not provide increased protection to HH&E. Those tax dollars should be directed at removing contaminants from the environment, an activity that would benefit HH&E. We understand that Ecology has the authority to be more restrictive than EPA, but those added restrictions should act to enhance protection of HH&E, not diminish it. Please explain how this onerous clarification is beneficial to the citizens of Washington in terms of human health and the environment. |

| | | | | |
|---|---|---|---|---|
| | | | | If Ecology persists on being more stringent than EPA's reasonable approach to weekly inspections, Ecology should define weekly as once each calendar week (or once each work week) with no less than 4 days and no more than 11 days between inspections. This ensures that a minimum number of inspections are performed, that they are spaced appropriately apart, yet provide the capability for the regulated community to adjust to unforeseen circumstances like last winter's weather.<br><br>Alternatively, Ecology should add provisions to allow a generator or permitted unit to request a variance from inspecting according to a rigid (i.e., exactly seven days) definition of weekly through demonstration that schedules allowing for some flexibility are protective based on waste type, storage conditions, inspection history, vicinity to the public and other relevant factors. Ecology should also provide for an extension to the weekly timeframe to allow more efficient calendar week inspections on a case-by-case basis for generators and owners/operators that only need flexibility periodically.<br><br>Suggested wording:<br><br>"Weekly inspections" means an inspection conducted at least once per calendar week with no less than 4 and no more than 11 days between inspections unless the department has granted an extension or a variance to the weekly inspection period.<br><br>Lastly, over the last 37 years since dangerous waste calendar week inspections have been implemented at Hanford, PRC cannot recall any specific instances |

| | | | | |
|---|---|---|---|---|
| | | | | where calendar week inspections were unable to identify and remedy container deterioration when the container was compatible with the stored waste. |
| 36 | 173-303-040 | Definitions | "Authorized representative" means the person responsible for the overall operation of a generator site, facility, or an operational unit (e.g., plant manager or superintendent). | CHPRC is not in favor of this proposed change because it appears to limit the delegation of authority of the authorized representative, and is therefore either less clear than the 40 CFR 261.10 equivalent wording or problematic for the regulated community.<br><br>40 CFR 261.10 defines an "*Authorized representative"* as "the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility."<br><br>The suggested definition in 173-303-040 does not include the phrase "or person of equivalent responsibility" which appears to limit the delegation authority of the authorized representative to appoint an equivalently responsible person to act as an alternate authorized representative.<br><br>CHPRC would support the authorized representative definition if it included the phrase, "or person of equivalent responsibility". |
| 34 & 87 | 173-303-040 | Definitions | "Accumulation" refers to the definition of "storage."<br><br>"Storage" means the holding of dangerous waste for a temporary period. Accumulation" of dangerous waste, by the generator on the site of generation, is storage of dangerous waste and can be managed under the applicable | CHPRC requests clarification that defining accumulation as storage will not affect generator onsite treatment in tanks, containers or containment buildings. EPA clarified in the March 24, 1986, Federal Register that "accumulation" allowed not only storage, but also treatment without a permit assuming the generator standards of 40 CFR 262.34 were being met. By defining accumulation as storage, CHPRC hopes that Ecology is not impacting treatment by generator. |

| | | | | |
|---|---|---|---|---|
| | | | conditions for exemption of WAC 173-303- 170(2)(b). | Excerpt from March 24, 1986 Federal Register, page 10168.<br><br>*"Of course, no permitting would be required if a generator chooses to treat their hazardous waste in the generator's accumulation tanks or containers in conformance with the requirements of § 262.34 and Subparts J or I of Part 265. Nothing in § 262.34 precludes a generator from treating waste when it is in an accumulation tank or container covered by that provision. Under the existing Subtitle C system. EPA has established standards for tanks and containers which apply to both the storage and treatment of hazardous waste. These requirements are designed to ensure that the integrity of the tank or container is not breached. Thus. The same standards apply to a tank or a container, regardless of whether treatment or storage is occurring. Since the same standards apply to treatment in tanks as applies to storage in tanks, and since EPA allows for limited on-site storage without the need· for a permit or interim status (90 days for over 1000 kg/mo generators and 180/270 days for 100-1000 kg/mo generators), the Agency believes that treatment in accumulation tanks or containers is permissible under the existing rules, provided the tanks or containers are operated strictly in compliance with all applicable standards. Therefore, generators or 100-1000 kg/mo are not required to obtain interim status and a RCRA permit if the only on-site management which they perform is treatment-in an accumulation tank or container that is exempt from permitting during periods or accumulation ( 180 or 270 days)."* |
| Various | 173-303-174(1) (f)(i-ii),<br><br>And associated citations at: | Various | (f) Container labeling or marking. A generator must clearly label or mark each | CHPRC does not favor the omission of DOT hazard labels as a means of compliant indication of container hazard as proposed by this change. Deletion of EPA's clarifying language makes compliance more difficult |

| | | | | |
|---|---|---|---|---|
| | 173-303-200(6)(b),<br>173-303-200(7)(a) and b)(ii),<br>173-303-200(13)(a)(iv)(C),<br>173-303-240(6)(i) | | container of dangerous waste with the following:<br>(i) The words "dangerous waste" or "hazardous waste" where the label or marking is legible from a distance of 25 feet or the lettering size is a minimum of one half inch in height.<br>(ii) An indication of the hazards of the contents (examples include, but not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:<br>(D) Legible and/or recognizable from a distance of 25 feet or the lettering size is a minimum of one half inch in height, and<br>(E) Understandable to employees, emergency response personnel, the public and other visitors to the site. | and may result in excessive hazard indications for emergency response purposes.<br><br>Hazard marking should accurately identify the actual hazards exhibited with a particular container of waste. Overstating or simplifying the potential risks could adversely impact emergency response efforts and endanger emergency responders, workers and the public due to unnecessary evacuations based on incorrect hazard markings.<br><br>Hazards associated with the F, K, U or P listed codes can be negligible. As is the case with debris waste, if the waste, on its own exhibits a characteristic or criteria, than it should be labeled with an appropriate DOT, OSHA or NFPA hazard. If the debris or soil is a listed hazardous waste only due to contact with some other waste that carried a listed hazardous waste code via the mixtures, derived from or contained-in rules, the debris itself may not exhibit any characteristics or WA State criteria for dangerous waste. These wastes should not be identified with a nonexistent hazard that could mislead emergency responders, workers or even the public.<br><br>As stated by EPA in the final GIR, *"Examples of hazards include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the DOT requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the OSHA Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the NFPA code 704.*" One commenter stated that using this flexible approach will strengthen hazard communications and CHPRC agrees. |

| | | | | |
|---|---|---|---|---|
| | | | | Furthermore, the Hanford site is physically separate from the surrounding population and site access is controlled 24 hours per day and 7 days per week.<br>• Hanford has its own emergency response organization that leads any site emergency response action. The Hanford owner and operators are best suited to determine the appropriate hazard labels (e.g., DOT, OSHA, NFPA or use any other nationally recognized system) and train their emergency response organization in the meaning of those hazard labels.<br>• Hanford employees and vendors are required to complete specific training with regard to emergency response actions. The Hanford owner and operators are the most knowledgeable sources to determine the appropriate hazard labels for Hanford generated wastes and to train their employees and vendors in the meaning of those labels.<br>• Hanford access is restricted to authorized personnel. All visitors receive a safety briefing and are escorted at all times.<br><br>Concerning DOT hazard labels and placards, if DOT hazard labels and placards are adequate to warn emergency response personnel, and the public of hazardous materials moving on public highways through cities and towns, these labels and placards should be more than adequate as hazard labels.<br><br>**If Ecology does not allow the use of DOT hazard labeling it will increase the cost of Hanford cleanup** with no environmental benefit. For example, a generator at one part of the Hanford site would use |

| | | | | |
|---|---|---|---|---|
| | | | | Ecology hazard labels while accumulating waste such as "Ignitable", "Corrosive", "Reactive" or the generic catch-all hazard of "Toxic". However, if the Ecology required hazard labels contradict a DOT requirement, the hazard labels will have to be removed and applicable DOT labels e.g., Radioactive or Class 9, applied when the waste is shipped to another Hanford unit for storage since Hanford complies with DOT or DOE shipping requirements even for onsite transportation in order to ship as safely as possible. Once the waste is off-loaded at the receiving storage unit the DOT labels that Ecology considers not understandable to the general public will have to be removed and Ecology approved hazard labels re-applied. This whole process would be repeated as the waste is shipped to a treatment unit and then to a disposal unit, all on the Hanford site.<br>• Each time hazard labels are replaced, an opportunity for human error is introduced increasing compliance risks.<br>• Switching hazard labels depending on whether the container is in accumulation, storage or pre-transport increases opportunities for confusion of which labels are compliant.<br>• Applying hazard labels at one location, and then removing the hazard labels for transportation and then re-applying the hazard labels following receipt at another location is a forced misuse of taxpayer money and a diversion of resources that could be spent on cleanup activities that actually benefit human health and the environment.<br><br>The equivalent federal requirement at 40 CFR 262.15(a)(5)(ii) stated: |

| | | | | |
|---|---|---|---|---|
| | | | | *"An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704)."*<br><br>Ecology's proposed regulations do not include the references to DOT, OSHA, which includes the Global Harmonized System (GHS), or NFPA. However, Ecology's proposed regulations also do not prohibit the use of these commonly recognized systems, except that Ecology added that the hazard labels must be "understandable" to employees, emergency responders, waste handlers, i.e., "employees", the public and visitors. CHPRC is concerned that ensuring all members of the public or all visitors understand technical waste labels and markings is a significant compliance risk since not every member of the public or every visitor will understand technical hazards even such as ignitable, corrosive, reactive or toxic. PRC cannot guarantee that 100% of the public and 100% of visitors will retain the technical knowledge from their site training to differentiate between significant hazards like radioactivity and insignificant hazards like debris listed only for legal reasons, e.g., no hazards are present. It is expected that emergency responders and waste handlers understand hazard labels to ensure that appropriate actions are taken during emergency response or routine waste operations. And these types of workers |

| | | | | |
|---|---|---|---|---|
| | | | | need the technically appropriate hazard labels present on the waste containers whether it is a DOT, OSHA, NFPA or other commonly recognized systems as EPA promoted. However, the general public has no access to Hanford waste accumulation and storage areas which is probably the same case for any generator in Washington State since security requirements at WAC 173-303-310 apply to all generators and TSDFs. Also, visitors to the Hanford site are escorted at all times by CHPRC personnel that do understand hazard labels. And as stated by Ecology during the November 14, 2017, webinar on these proposed rules, the main goal of the hazard label is to make people aware of a danger. All dangerous and mixed waste containers are marked "Hazardous Waste" or "Dangerous Waste" and include a DOT hazard mark or label or equivalent wording. If the general public sees a container of debris marked "Hazardous Waste" with the additional hazard label "Toxic", the general public will make no distinction between the two terms "hazardous" or "toxic" and will still be aware of a danger. Hence if a dangerous waste container is marked "Hazardous Waste" and DOT hazard class 9 label (which means no other DOT hazards applied and is only regulated by DOT because it is regulated as a hazardous waste), the general public again is aware of the danger due to the presence of the term "Hazardous Waste" or "Dangerous Waste". The DOT Hazard Class 9 will greatly assist an emergency responder or worker since they understand that no other DOT hazards apply and the waste is relatively benign and emergency response in this case would be implemented accordingly. If the waste had to be marked "Toxic", the emergency responder would interpret the waste to be a DOT Hazard Class 6.1 Poison and respond as though the waste were an actual poisonous waste when in fact, it is not. More |

| | | | | |
|---|---|---|---|---|
| | | | | resources would be allocated for a perceived DOT Hazard Class 6.1 emergency than a DOT Hazard Class 9, plus evacuation protocols would be more extensive. All actions for a perceived hazard would be more costly and less safe for all involved, i.e., people can get hurt during a mandatory evacuation.<br><br>The use of the EPA wording would help clarify acceptable markings and labels for hazard indications. Also the Generator Improvements Rule Federal Register stated that EPA "is providing flexibility to generators in how they identify hazardous of the hazardous waste in the container, and using DOT hazard communication such as hazard class labels (or placards, if appropriate) is one option for complying with this requirement. …"<br><br>CHPRC recommends adoption of the equivalent federal requirement wording at 40 CFR 262.15 and updating WAC 173-303-630(3) and all other sections referencing hazard labels to read as:<br><br>"Clearly label or mark containers with an indication of the actual hazards of the contents (examples include, but are not limited to, the exhibited dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic, and the exhibited characteristic hazard(s) for listed dangerous wastes; or applicable DOT, OSHA or NFPA labels, or any commonly recognized system that communicates the hazard(s)). The label or marking must be legible and/or recognizable from a distance of 25 feet or the lettering size is a minimum of ½one half inch in height." |
| 106 | 173-303-070(1)(b)<br>173-303-070(3)(a) | | (1)(b) The procedures in this section are applicable to any | CHPRC is not in favor of this proposed change of adding the phrase, any person "…who discovers an |

| | | | | |
|---|---|---|---|---|
| | | Designation of dangerous waste. | person who generates a solid waste, as defined in WAC 173-303-016, (including recyclable materials) that is not exempted or excluded by this chapter, or by the department, **or who discovers an unknown material**, or who is directed to or must further designate waste by subsections (4) or (5) of this section. Any person who generates a solid waste or discovers an unknown material must make an accurate determination determine if that waste or unknown material is a dangerous waste in order to ensure wastes are properly managed according to applicable dangerous waste regulations. A dangerous waste determination is made by following the designation procedures set forth in subsection (3) of this section.<br><br>(3)(a) The dangerous waste designation for each solid waste must begin immediately at the point of waste generation **or upon the discovery of an unknown material**. This must be done before any dilution, mixing, or other alteration of the waste occurs, and at any time in the | unknown material", because not all unknown materials are to be discarded or abandoned as solid wastes. If an unknown material is discovered, it may only be unknown material to the initial discoverer and subsequent research and evaluation may determine that the material is a known useable product. Assuming that any discovered unknown material is a solid waste is counter to one of the corner stones of the Resource Conservation and Recovery Act (RCRA) which is to use materials for their intended purpose and not discard useful products as wastes.<br><br>Furthermore, if an unknown material is to be discarded, it becomes a solid waste and the wording in 173-303-070(1)(b) and (3)(a) already addresses waste designation, so specifying "unknown material" that is determined to be a solid waste, is redundant.<br><br>Also, Ecology's regulatory authority does not include regulation of product materials. Unknown materials will be evaluated and if product, will be used, and if waste, will be subject to WAC 173-303.<br><br>CHPRC also disagrees with proposed language assigning dangerous waste determination responsibility to any person that discovers an unknown material. It is also inappropriate to expand WAC 173-303-040(5) and (5) to include "any person" except when that "person" is the generator of the waste.<br><br>The requirement to perform a dangerous waste determination is based on generation, which is the act or process that produces dangerous waste or the act that first causes a dangerous waste to become subject to regulation. Discovery by an entity other than the generator (as defined by WAC 173-303-040) should |

| | | | | |
|---|---|---|---|---|
| | | | course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the solid waste or dangerous waste classification of the waste may change. | not trigger any requirements, especially not those intended for persons engaged in waste generation. A requirement that assigns designation to "any person" who discovers an unknown material, yet has no responsibility for its existence, is inappropriate. Even CERCLA, which is a remedial program, does not indiscriminately assign liability to a discoverer, but limits responsibility based on the nexus to the material's existence. It appears that the regulation is written to require the discoverer to perform a dangerous waste determination without technically calling such person a generator much less a person qualified to perform waste designations. Is the intent of these provisions to make a discoverer the generator of a dangerous waste based solely upon the act of discovery?<br><br>CHPRC recommends deletion of the phrase "…or who discovers an unknown material" to align with the Resource Conservation and Recovery Act and 40 CFR 261. |
| 106 | 173-303-070(2)(a) | Designation of dangerous waste. | (2)(a) Except as provided at WAC 173-303-070 (2)(c), once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:… | CHPRC requests that Ecology update (2)(a) to align with the Federal mixtures and derived from rules by allow mixing of solid waste with dangerous waste. Ecology's rationale in the Draft Amendments Summary states:<br><br>"We are not proposing to adopt these updates to the mixture rule. This aligns with current dangerous waste regulations intended to avoid diluting dangerous waste to create a non-dangerous waste."<br><br>CHPRC understands that dilution is impermissible when attempting to meet a land disposal restrictions (LDR) treatment standard in 40 CFR 268, however, dilution should be permissible to merely remove a dangerous waste characteristic that renders a material |

| | | | | |
|---|---|---|---|---|
| | | | | nondangerous. In those cases, the material would no longer be a dangerous waste but would still be subject to the applicable LDR treatment standard. See 40 CFR 268.9 for the Federal rationale on rendering hazardous waste nonhazardous.<br><br>It seems counter-intuitive that Ecology does not want to render dangerous wastes as nondangerous waste. Management of a nondangerous waste pending LDR treatment is much less of a threat to human health and the environment than management of a dangerous waste. |
| 339 - 352 | WAC 173-303-201 | Preparedness, prevention, emergency procedures and contingency plans for large quantity generators. | Various texts throughout the subsection. | CHPRC is not in favor of this proposed change because there are several concerns with text in this subsection:<br><br>1. The lack of denoting ownership to the generator (i.e., generator facility versus generator's facility) makes this term different than others that are intended to mean the same thing. Notwithstanding, neither of these terms are clear. See next comment.<br>2. There is no concept of a "generator facility" defined in WAC 173-303-040. Facility is defined with two meanings: one for treatment, storage and disposal units and another for corrective action. The definition does not extend to generator activities. Hanford has many generator locations on the Hanford Facility. Creating a term like "generator facility" may imply that Hanford has multiple facilities on one site and that each facility needs a separate EPA identification number. Please eliminate mention of a "generator facility" and keep generator activities simple and understandable. |

| | | | | |
|---|---|---|---|---|
| | | | | 3. The language used implies that contingency planning in Washington State must extend beyond what EPA said in response to comments. Of particular concern is the addition of "hazardous substance" to the scope because this would require planning for activities beyond generation and management of dangerous wastes and would extend to virtually any location on the property where the generator activities occur. Such an approach is an overreach of Ecology's authority and goes way beyond the EPA changes, which are limited to accumulation areas and locations where waste is generated. Please make clear that this language is not intended to regulate activities that do not involve dangerous waste generation or dangerous waste management. This is particularly troublesome when coupled with the dubbing of the term "generator facility" and the apparent requirement to design, construct, and operate structures and equipment for product and non-dangerous waste management under potential enforcement of the dangerous waste regulations. Please eliminate the reference to hazardous substances in this provision to make it clear that the WAC 173-303 regulations only apply to dangerous waste activities.<br>4. Language in WAC 173-303-201(9)(a) that states "When modifications are made to nondangerous waste…provisions in an integrated contingency plan, the changes do not trigger the need for a dangerous waste permit modification" is troublesome and confusing because changes to generator |

| | | | | |
|---|---|---|---|---|
| | | | | provisions should never require a permit modification and therefore this provision is unjustified as a generator requirement; and the statement that nondangerous waste provisions are not subject to permit modifications could be read to imply that when the "One Plan" is used, then changes to dangerous waste provisions for generators would require a permit modification. Please make clear that generator activities are not subject to permit modifications.<br>5. WAC 173-303-145 is referenced for inclusion in the contingency plan "description of actions." What purpose is this seemingly redundant provision intended to serve? Please remove it because it could be interpreted as having the effect of unlawfully expanding the scope of the contingency plan to products, including products that have no association with dangerous waste management activities.<br>6. Use of the language "an emergency telephone number that can be guaranteed to be answered at all times" is perplexing. Guarantees are essentially formal promises or assurances that certain conditions will be fulfilled. Please change the language to simply making someone available at the number at all times, rather than providing a "guarantee." The requirement should be similar to other requirements without confusion.<br>7. For evacuation scenarios at Hanford, security and uncertainty are potential issues. Please add language indicating that for situations where security or exposure uncertainty is a concern during evacuation, the evacuation routes can be determined by the emergency |

| | | | | |
|---|---|---|---|---|
| | | | | coordinator and provided at the time of evacuation based on the current conditions.<br><br>What good is it to describe types and names of dangerous waste in layman's terms to emergency responders who are highly trained and need specific information as opposed to layman terms to properly respond to emergencies? CHPRC cannot find a list of "proper" layman's terms for use to minimize error or misunderstanding. |
| 431 | WAC 173-303-320 | | "…such as loading and unloading areas…," | CHPRC is in favor of adopting this language which is also present in 40 CFR. |
| 431, 432 | WAC 173-303-320 | | As part of the review, the Department may modify or amend the schedule as may be necessary; | CHPRC is not in favor of this proposed change because this language provides no basis for how and why the department would find it necessary to second-guess the facility owner/operator on adequacy of schedule. Any changes to the o/o determined schedule should be limited in basis to evidence that the proposed permit schedule frequency needs changing to avoid problems. Without a firm basis for when schedules will be modified/amended, we cannot count on a consistent or accurate approach. |
| 433 | WAC 173-303-350 | | "…in the event of any event or circumstance…" | CHPRC is not in favor of this proposed change because this language is confusing and overly broad. Contingency plans and emergency procedures should be for emergencies and potential emergencies such as fires or explosion at a dangerous waste facility or a release of dangerous waste that could threaten human health and the environment, not for "events," which could subjectively include almost anything. Please change the subjective term "event" back to "emergency."<br><br>Please eliminate the reference to hazardous substances because it would unlawfully extend dangerous waste requirements to nondangerous wastes and products. |

| | | | | |
|---|---|---|---|---|
| 687 | 173-303-630 | Use and management of containers. (2) Condition of containers | (e.g., severe corroding, severe rusting, flaking, scaling, and/or apparent structural defects) | CHPRC is not in favor of this proposed change because the word "severe" does not appear to apply to each of the words in the parenthesis. This could lead to confusion in compliance and enforcement of the requirement.<br><br>The abbreviation "e.g." or exempli gratia, when bracketed is generally interpreted to be a listing of independent examples (severe might not apply to all that follow in the applicable text as proposed). To eliminate confusion, the qualifier "severe should remain in front of rusting as a standalone example within the list.<br><br>Recommend the following: (e.g. severe corroding, severe rusting, severe flaking, severe scaling, apparent structural defects). This is consistent with the "State Rule Differences" articulated in Ecology's Draft Amendments Summary. |
| 246<br>304<br>702 | 173-303-630 | Use and management of containers. (5) Management of containers | A row of containers must be no more than two wide and allow for complete inspection of each container. | CHPRC is not in favor of this proposed change, as the term "Complete" in the phrase "…and allow for complete inspection of each container" appears to introduce issues that are inconsistent with Ecology permitting principles of "implementability" and "enforceability". Inspection of dangerous waste containers requires evaluation to assess condition, and to make a timely determination that a container is in good condition, or subject to repackaging and/or other WAC compliant management. Addition of the term "complete" could lead an inspector to conclude that the inability to directly examine the underside of a stored container renders the inspection incomplete, and therefore subject to a compliance violation. If containers (e.g., drums) are stored in an otherwise permit compliant two-wide configuration, inspectors could find that the inside walls of the drums are not "completely inspectable". The regulated community |

| | | | | |
|---|---|---|---|---|
| | | | | has no interest in retaining waste in containers that are incapable of constraining their contents. To this end, inspection of containers where, for example, the bottoms are on a solid surface, and cannot be visually inspected requires a qualitative evaluation of the container and its contents to determine compliance with WAC 173-303-630. This can be different depending upon whether the container stores liquid or non-liquid waste, as it could be stored on spill pallets or other devices capable of demonstrating base containment. EPA has addressed container storage arrangement precluding inspection by indicating that arrangement (strapping together) should not preclude accessibility of "significant portions of the containers" from inspection. Although the defining of "significant portions" presents some ambiguity, it does allow an inspector some latitude in determining whether or not containers can be adequately inspected.<br><br>CHPRC also has very large containers (boxes ~10' X 10' X 20') that preclude practical inspection of the top or the bottom of the containers.<br><br>CHPRC also has containers stored in engineered racks that can be three tiers high. Current inspection protocols require CHPRC inspectors to view the visible portions of the containers and to note any evidence of leaks from the containers but the use of a man-lift, or mirrors on extension poles, or removing all containers from the 2nd and 3rd tiers of rack storage to conduct an inspection on the floor, etc., is a tremendous expenditure of time and money to achieve no added benefit to HH&E.<br><br>CHPRC questions whether this language is intended to require a change in how container inspections are accomplished or is it intended to clarify existing |

| | | | | |
|---|---|---|---|---|
| | | | | language? If this is a change in expectations for inspections, please explain why this requirement needs to be made more stringent after being in place on a federal basis for over 37 years. Please provide specific information regarding Ecology's expectations for satisfying this requirement. It seems reasonable that a "complete inspection" should involve a graded approach based on the type of waste stored and could often be accomplished without necessarily observing every square inch of a container's external surface. For example, the inspection approach for highly reactive wastes might be different than for soil with trace amounts of listed solvent that exhibits no characteristics of dangerous waste. It is not reasonable to establish a rigid standard for inspection that will be difficult to achieve and add no addition benefit to protection of HH&E.<br><br>And, as stated by EPA in the May 19, 1980, Federal Register on page 33199, which promulgated the container inspection regulations:<br><br>*"These regulations generally require nothing more than simple good practices in the management of containers of hazardous wastes – a level of care commensurate with the hazardous nature of the wastes stored. The Agency believes that these regulations should not be difficult to implement, and that they will provide a great improvement in the problems posed by current bad practices."*<br><br>Ecology's proposed wording for "complete inspections" is likely to result in varying interpretations by inspectors that would be beyond simple good practices and would be difficult to implement, and again not provide added protection to HH&E. |

| | | | | |
|---|---|---|---|---|
| 770 | 173-303-830 Appendix I | Modifications | 5. Changes in the training ~~plan~~**program**:<br><br>a. That affect the type or decrease the amount of training given to employees . . . . | CHPRC is not in favor of this proposed change because the intent of this change is not presented in the change proposal. WAC 173-303-330(1) indicates that the training program must include those elements set forth in the training plan required in subsection (2) of this section. Therefore, this change appears to significantly broaden the requirement to modify the Dangerous Waste permit based on changes to the Training Plan (as currently required), and now the Program (as proposed in WAC 173-303-330(1)). A Training Program as described at WAC 173-303-330(1) directs such functions as administration, participation, timely completion, and interim supervision, which are accountable requirements via regulation. Whereas, the more specific requirements of the Training Plan ensure that specific personnel are adequately trained based on their Dangerous Waste Management related tasks. Therefore, the need for increased permit accountability (as apparently represented by the proposed change) may have the unintended consequence of constricting positive change to the training program, absent enhancement of permit required plans to train dangerous waste workers.<br><br>Please provide an explanation of the intent of this proposed change. |
| 283 | 173-303-174(1)(g) | Satellite accumulation area regulations for medium quantity generators and large quantity generators. | "Accumulation limits met. When the accumulation limits listed in paragraph (1) of this section are met: | CHPRC is not in favor of this proposed change because the term "met" is not consistent with other regulatory references to accumulation limits that use the term "exceeds" which would also be consistent with Federal satellite regulations<br><br>40 CFR 262.15(a)(6) uses the phrase "…in excess of the amounts listed…" which clearly conveys that an SAA container can be filled to its applicable limit (55 gallons for non-acutely dangerous waste or 1 quart for |

| | | | | |
|---|---|---|---|---|
| | | | | acutely liquid hazardous waste or 2.2 lbs. of solid acutely hazardous waste) and another SAA can be started while the full SAA is marked with an accumulation date and moved within 3 days to the central accumulation area. The proposed wording with "met" could imply that once the 55-gallon or 1 quart limit is met, the satellite area can no longer accumulate any dangerous or hazardous waste until the full SAA is moved to a central accumulation area.<br><br>Also, WAC 173-303 has other accumulation time limit references for small quantity and large quantity generators, laboratory clean-outs, and empty containers that uses the term "exceeds", which is appropriate and would be consistent with 40 CFR 262.<br><br>Please amend the proposed wording in (1)(g) to read:<br><br>"Accumulation limits exceeded. When the accumulation limits listed in paragraph (1) of the section are exceeded:" |

| **E-Manifest Rule Comments** | | | | |
|---|---|---|---|---|
| **WAC Draft Rule pdf pg #** | **WAC Citation** | **Title** | **Applicable Text** | **Comment** |
| 293 | 173-303-180(9) | Use of electronic manifest. | NA | Will generators need to procure any special hardware or software in order to use the e-manifest system? |
| 295 | 173-303-180(10)(c) | Restriction on use of electronic manifests. | "A generator may prepare an electronic manifest for the tracking of dangerous waste shipments involving any dangerous waste only if it is | What will be the system for determining that all waste handlers named on the manifest participate in the e-manifest system? |

| E-Manifest Rule Comments | | | | |
|---|---|---|---|---|
| **WAC Draft Rule pdf pg #** | **WAC Citation** | **Title** | **Applicable Text** | **Comment** |
| | | | known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system." | |
| 296 | 173-303-180(10)(g) | Imposition of user fee. | "A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest." | The proposed wording states that a user fee "may" be assessed. Ecology's Summary of 2017 Draft Amendments identifies EPA as having "chief responsibility for implementing the uniform hazardous waste management regulations as far as collecting user fees and manifests". Does ECY have any ideas on the potential user fee amounts?<br><br>Also, based on information presented in Ecology hosted public meetings, EPA now intends to assess fees at final receiving facilities who in turn would pass those costs along to users. Are other methods of payment for user fees being considered? Please clarify whether Ecology intends to levy additional fees to implement the E-manifest system. |
| 296 | 173-303-180(10)(g) | Imposition of user fee. | "The current schedule of electronic manifest user fees will be published by EPA as an appendix to 40 CFR Part 262." | If the schedule for e-manifest fees is not published in an appendix to 40 CFR Part 262 at the time that the e-manifest system is in place, how will user fees be determined? |
| 296 | 173-303-180(9) | Use of electronic manifest. | NA | If a change is needed to an e-manifest once it has been signed and the waste shipped or received by the TSDF, how will changes be made? |

**CH2MHill Plateau Remediation Company (CHPRC) Comments on Ecology's Preliminary Draft Rule Changes to WAC 173-303 "Dangerous Waste Regulations" (using PDF file dated 10/10/2017)**

| Hazardous Waste Import/Export Rule Comments | | | | |
|---|---|---|---|---|
| **WAC Draft Rule pdf pg #** | **WAC Citation** | **Section Title/Subsection Title** | **Applicable Text** | **Comment** |
| | | | | No comments. |