

**Hanford Site DOE Consolidated Comments on WAC 173-350 Solid Waste Handling Standards Rule Change**

#	Comment	DOE Contractor
1	<p><b>WAC 173-350-100 definition of “glass”:</b> The proposed definition of “glass” excludes “glass materials containing significant concentrations of lead, mercury, or other toxic substances.” In comments on the second preliminary draft, Ecology was asked to clarify the meaning of “significant concentrations.” In response, Ecology stated that “[d]etermining what is significant in this context will be a judgment on the part of the solid waste permitting authority.” Deferring to the permitting authority to make this regulatory interpretation will result in uncertainty within the regulated community and likely lead to inconsistent application within the State. It is contingent upon Ecology to write rules clearly so that they can be understood by those required to comply. Certainly Ecology must have some concept in mind, even if only in a general sense, when referring to “significant concentrations” of toxic substances in glass. As requested previously, please clarify the meaning of this term in regulation to facilitate a clear understanding and consistent State-wide application. For example, a “significant concentration” could be “a level exceeding that which is found in glass produced for public use; e.g., levels of lead which exceed those typically found in leaded glass.” Consideration should also be given to establishing an exception for glass which, when tested using the Toxicity Characteristic Leaching Procedure, does not leach hazardous constituents at levels which are above unrestricted use values established under the Model Toxics Control Act regulations.</p>	WRPS
2	<p><b>WAC 173-350-410(1) list of inert wastes:</b> The list of inert wastes in proposed WAC 173-350-410(1) is more limited than inert waste under the existing regulation. Currently, WAC 173-350-990 (proposed for elimination in the new regulation) allows for the listed inert wastes, <u>plus</u> other wastes which meet the criteria in WAC 173-350-990(3). In response to comments on the second preliminary draft, Ecology stated that the new rule “relies on the list of types of solid wastes that statute authorizes inert waste landfills to receive (see RCW 70.95.065).” This misrepresents the statute: The list in RCW 70.95.065 isn’t a list of <u>all</u> waste authorized as inert, but instead is the minimum that <u>must</u> be included as inert. (See RCW 70.95.065(2).) The minimum inert waste list in the statute also includes “[o]ther materials as defined in chapter 173-350 WAC.” The criteria approach in the existing regulation at WAC 173-350-990(3) is entirely consistent with the statutory provision, and Ecology has provided no justification for eliminating these criteria in favor of a more limited approach. This being the case, the WAC 173-350-990(3) criteria should be retained, as authorized by RCW 70.95.065.</p>	WRPS
3	<p><b>WAC 173-350-410(1):</b> It does appear that Ecology is narrowing the universe of inert wastes which could impact costs at Hanford if formerly inert wastes become subject to costlier disposal. PRC would prefer that the original definition of inert waste remain as currently written so as to not impede Hanford cleanup.</p>	CHPRC