



DEPARTMENT OF
ECOLOGY
State of Washington

As required by the Washington State Administrative Act, RCW 34.05.

IMPLEMENTATION PLAN FOR THE ADOPTION OF
Chapter 173-303 WAC, Dangerous Waste Regulations

June 30, 2009

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Implementation Plan for Chapter 173 - 303 WAC, Dangerous Waste Regulations

The Administrative Procedures Act requires that an Implementation Plan be placed in the rule file for all significant legislative rules that are adopted. Federal rules that are adopted or incorporated without material change are not subject to this requirement. Some of the rules adopted as part of this rulemaking are virtually identical to their federal counterparts; therefore, the Implementation Plan addresses the remainder of the rules that are subject to the Administrative Procedures Act requirements for significant legislative rules. For the significant legislative rules, such as rules that modify state toxicity book designation methods, this Implementation Plan describes how Ecology intends to:

- ◇ Implement and enforce the rule, including a description of the resources Ecology intends to use;
- ◇ Inform and educate affected persons about the rule;
- ◇ Promote and assist voluntary compliance; and
- ◇ Evaluate whether the rule achieves the purpose for which it was adopted, including to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

In addition, this Implementation Plan describes, for all rule amendments, how Ecology intends to:

- ◇ Train and inform Ecology staff regarding new rules or rule amendments and,
- ◇ Identify program documents that may need to be revised because of the new rule or rule amendment.

1. Please describe how the Agency intends to implement and enforce the rule. Please include a description of the resources the Agency intends to use.

The rule amendments were developed primarily by Hazardous Waste and Toxics Reduction (HWTR) Program headquarters staff. Following adoption, implementation of the rules will primarily be done by regional office staff. There will be continued emphasis on statewide policy and development of guidance and training to meet regional staff needs. Draft rules were circulated within Ecology early in the process, and an update was given to compliance staff at an all-staff meeting in May 2006. Headquarters staff will work on obtaining authorization from EPA for the federal regulations that have been adopted. Authorization gives Ecology authority to implement the program, instead of EPA.

No entirely new areas of regulation were added to the rules during this rulemaking. Instead, existing regulatory requirements were modified or enhanced. With the decision not to adopt some of the newer federal rules that reduced regulatory requirements, specific areas of the regulations were amended to clarify that the reduced requirements were not incorporated into the state rule. Although these rules are being modified, they do not impact the regulated public.

Hazardous waste inspectors and Technical Assistance staff at the four regional offices have day-to-day interaction with generators and will be implementing and enforcing the Dangerous Waste Regulations. Industrial Section staff of the Solid Waste and Financial Assistance Program and

Nuclear Waste Program staff also implement these regulations. Regional staff will continue to be the primary implementers and enforcers of the amended regulations. These rule changes are part of the existing regulatory framework for managing dangerous wastes, and will not require additional staff for implementation. Implementation of the new rules will be absorbed into existing workload and priorities of the HWTR Program.

2. Please describe how the Agency intends to inform and educate affected persons about the rule.

Ecology will notify interested persons electronically of the rule adoption. Throughout the rulemaking, articles were published in *Shoptalk* to explain the rule changes and notify the regulated community. For example, an article in *Shoptalk* explained the new Manifest Rule, along with a website providing more information. Information on the rules will continue to be available in an electronic version of *Shoptalk*. As regional staff visit generators and treatment, storage, and disposal facilities, staff will work to educate them on any of the new requirements that impact them or that they could benefit from. As Ecology's budget allows, information will be presented at generator workshops and at any other outreach opportunity. Currently, generator workshop tutorials are available online. Both regional and headquarters staff will respond to phone calls regarding the new changes, especially during the early stages of implementation.

Ecology uses an electronic e-mail list of interested people to send out information related to the rule amendments, including generators, counties, environmentalists, tribes and other interested people. Announcement of upcoming Dangerous Waste rulemaking, availability of draft rule language for review and comment, and other opportunities have been and will continue to be announced using this list serve.

3. Please describe how the Agency intends to promote and assist voluntary compliance for this rule.

The actions mentioned above to inform and educate stakeholders on the changes also help promote voluntary compliance. The Dangerous Waste Regulations are complex regulations. *Shoptalk* articles that explain some of the key changes will help with voluntary compliance, as will the availability of guidance, if needed, on the changes. Existing guidance will need to be updated to reflect the changes. Both Biological and Chemical Testing Methods are being updated as part of the rule process. Changes to the documents included clarifications, reference and test method updates, and extensive plain talk revisions.

Both compliance and toxics reduction staff will be able to inform the regulated community about relevant changes during their site visits. All program staff are available to respond to stakeholder phone and e-mail queries.

A number of other activities have proven to be useful in promoting voluntary compliance. They include:

- ◇ An index to the regulations to assist the regulated community in finding relevant requirements. The index is updated with each rulemaking.

- ◇ The regulations and guidance documents available on Ecology's web site.
- ◇ Routine training of regional staff on new and amended regulations.
- ◇ Maintenance of a file for comments and suggestions for improving the regulations. The file is used during each subsequent rule making. These suggestions come from both Ecology staff and the regulated community.
- ◇ Guidance documents developed for particular waste streams or industries, including fact and focus sheets and industry specific booklets.
- ◇ Changes are incorporated to improve rule clarity. Early draft amendments are reviewed for clarity, and suggestions are incorporated prior to proposal.
- ◇ The number and types of phone calls are monitored to determine where additional guidance will be helpful.

As mentioned previously:

- ◇ Announcements of amendments and articles on specific rule changes appear in *Shoptalk*.
- ◇ Outreach is conducted by Ecology through its generator workshops and other site visits.

4. Please describe how the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted, including to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcome.

Ecology receives feedback from businesses during inspections and toxics reduction staff visits, and uses this input to evaluate if the rule changes are achieving their purpose. Following initial implementation, the numbers of violations or necessary enforcement actions can be monitored.

Rules changes will be monitored over a period of time and may be discussed at a variety of program staff meetings including Compliance Network, Corrective Action Network, all-staff meetings, and Toxics Reduction Network meetings.

5. Please describe how the Agency intends to train and inform Ecology staff regarding new rule or rule amendment.

Regional HWTR Program and other directly impacted staff have been kept in the information loop throughout the rule process via a contact person in each regional office. Other related Ecology programs, such as the Industrial Section of the Solid Waste and Financial Assistance program and staff in the Nuclear Waste program, are also kept informed. Additional updates will be distributed using this contact person process.

The rule changes during this process did not make significant changes to existing regulations. Specific training sessions are not being planned, but a summary and updates will be sent to Ecology staff.

6. Please identify supporting documents that may need to be revised because of the rule amendment. Or, identify new supporting documents that need to be developed because of a new rule.

A system exists in the HWTR Program where publications are reviewed for accuracy each time they need to be reprinted. In addition, the list of program publications will be reviewed to determine, based on content and focus, which guidance documents should be reviewed sooner to see if they need to be revised as a result of these rule changes. It is not anticipated that new guidance documents are needed for any of these rule changes.

The following documents may need slight revisions:

- ◇ The Universal Waste Rule for Mercury-containing Equipment and Thermostats (Publication 98-407b).
- ◇ The Memorandum of Agreement with EPA Region 10.