



Figure 1. Test Site Clearance Requirement for Stationary Locomotive, Locomotive Pass-by, Rail Car Pass-by, and Locomotive Load Cell Test Stand Tests.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6449-8]

### Washington: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Washington has applied to EPA for Final authorization of changes to its hazardous waste program under

the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization with one exception discussed later in this rulemaking. Unless adverse written comments are received during the review and comment period provided in this immediate final rule, EPA's decision is to authorize the State's changes through this final action.

**DATES:** This Final authorization for Washington shall be effective January 11, 2000 if EPA receives no adverse comment on this document by November 12, 1999. Should EPA receive adverse comments, EPA will withdraw this rule before the effective date by

publishing a timely withdrawal in the **Federal Register**.

**ADDRESSES:** Send written comments to Nina Kocourek, U.S. EPA, Region 10, WCM-122, 1200 Sixth Avenue, Seattle, WA 98101, phone number: (206) 553-6502. You can view and copy Washington's application during normal business hours at the following addresses: U.S. EPA, Region 10, Library, 1200 Sixth Avenue, Seattle, WA 98101, contact at (206) 553-1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, contact Patricia Hervieux, (360) 407-6756.

**FOR FURTHER INFORMATION CONTACT:** Nina Kocourek, EPA Region 10, WCM-122, 1200 Sixth Avenue, Seattle, WA 98101, phone number: (206) 553-6502.

## SUPPLEMENTARY INFORMATION:

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273, and 279.

**B. What Decisions Have We Made in This Rule?**

We conclude that Washington's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Washington Final authorization to operate its hazardous waste program with the changes described in the authorization application with the exception of the State's designation of characteristic antifreeze as a state-only waste. Washington has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and on the non-trust lands within the 1873 Survey Area of the Puyallup Reservation as defined in the settlement agreement between the Puyallup Tribe, Federal, State and local governments dated August 27, 1988. EPA retains jurisdiction and authority to implement RCRA over trust lands and over Indians and Indian activities within the 1873 Survey Area. The authorized program is responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the limitation of this authorization with respect to the State's designation of characteristic antifreeze as a state-only waste. New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are

authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Washington, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's Authorization Decision?**

The effect of this authorization decision is that a facility in Washington subject to RCRA will now have to comply with the authorized State requirements and with the federal HSWA provisions for which the State is not authorized in order to comply with RCRA. Washington has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions regardless of whether the State has taken its own actions.
- Take an action where a situation may present an imminent and substantial endangerment to health or the environment.

This action does not impose additional requirements on the regulated community because the regulations for which Washington is requesting authorization are already effective, and are not changed by this approval. Therefore, if the EPA does not receive adverse written comment on Washington's application for program revision by the end of the comment period, the authorization of Washington's revision shall become effective on January 11, 2000 and EPA will take no further action on the companion document appearing in the Proposed Rules section of today's **Federal Register**.

**D. What Happens If EPA Receives Comments That Oppose This Action?**

If the Agency does receive adverse written comment, it will publish a notice withdrawing this immediate final rule before its effective date. EPA then will address the comment(s) in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. If we receive comments that oppose only the authorization of a

particular change to the State hazardous waste program, we will withdraw that part of today's authorization rule. However, the authorization of the program changes that are not opposed by any comments will become effective on the date specified. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn. Any parties interested in commenting should do so in accordance with the time frame provided in today's **Federal Register**. We will address all public comments in a later **Federal Register**. You will not have another opportunity to comment. If you want to comment on this action, you must do so at this time.

**E. What Has Washington Previously Been Authorized For?**

Washington initially received Final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3782) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 22, 1987 effective on November 23, 1987 (52 FR 35556); August 17, 1990 effective October 16, 1990 (55 FR 33695); November 4, 1994 effective November 4, 1994 (59 FR 55322); February 29, 1996 effective on April 29, 1996 (41 FR 7736); and September 22, 1998 effective on October 22, 1998 (63 FR 50531).

**F. What Changes Are We Authorizing With Today's Action?**

On July 27, 1999, we received submittal of an official program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. On August 12, 1999, we determined Washington's official program revision application to be complete. We are now making a Final decision, subject to receipt of written comments that oppose this action, that Washington's hazardous waste program revision, with the exception of the State's designation of characteristic antifreeze as a state-only waste, satisfies all of the requirements necessary to qualify for Final authorization. The following table indicates those federal rules and the analogous Washington state authorities that are receiving final authorization. All of these analogous state authorities were legally adopted and were effective as of February 11, 1998.

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-. . .)
17H .....	Double Liners .....	50 FR 28702, 07/15/85 .....	650:(2)(a); (2)(i); (k); (l); (m); (c)(f), 665:(2)(a); (2)(h); (2)(i); (2)(k); (2)(l); (c)-(f), 400:(3)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173–303–...)
17F .....	Liquids in Landfills I .....	50 FR 28702, 07/15/85 .....	140:(4)(b); (4)(b)(i); (4)(b)(iv); (4)(b)(iv)(A); (4)(b)(iv)(B), 400:(3)(a).
17I .....	Ground-Water Monitoring .....	50 FR 28702, 07/15/85 .....	645:(1)(b), 650:(3); (4)(b)(iii); (6)(b)(ii), 660:(5)(b)(ii), 665:(4)(b)(ii); (6)(b)(ii).
17N .....	Permit Life .....	50 FR 28702, 07/15/85 .....	830:(3)(a)(v), 806:(11)(d).
21 .....	Listing of EDB wastes .....	51 FR 5327, 02/13/86 .....	9904, 110:(3)(f), 082:(4).
22 .....	Listings of Four Spent Solvents .....	51 FR 6537, 02/25/86 .....	9903, 9904, 110:(3)(f); 082:(4), 9905.
31 .....	Exports of Hazardous Waste* ..	51 FR 28664, 08/08/86 .....	070:(8)(b)(iii), 230:(1); (2); (3)(b), 120:(2)(a)(i), 220:(1)(a), 600:(3)(f), 160:(2)(b), 180:(1), 240:(3)(a), 250:(9)(c).
32 .....	Standards for Generators-Waste Minimization Certification.	51 FR 35190, 10/01/86 .....	180:(1).
42 .....	Exception Reporting for Small 52 Quantity Generators of Hazardous Waste*.	52 FR 35894, 09/23/87 .....	220: (2)(a); (2)(b) & (c), 210 & 220.
44C .....	Corrective Action for Injection Wells*.	52 FR 45788, 12/01/87 .....	(WAC 173–216–050): 400:(2)(c)(ii), 802:(3).
44D .....	Permit Modification .....	52 FR 45788, 12/01/87 .....	830:(3)(a)(iii).
44E .....	Permit as a Shield Provision ....	52 FR 45788, 12/01/87 .....	810:(8).
44F .....	Permit Conditions to Protect Human Health and the Environment.	52 FR 45788, 12/01/87 .....	800:(11).
44G .....	Post-Closure Permits .....	52 FR 45788, 12/01/87 .....	802:(2), 806:(4)(a)(xiii), 800:(9); (9)(a); (9)(b); (9)(b)(i); (9)(b)(ii); (10)(a); (10)(b); (10)(c).
47 .....	Identification and Listing of Hazardous Waste; Technical Correction.	53 FR 27162, 07/19/88 .....	070:(8)(a)(ii) & (iii).
56 .....	Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes.	53 FR 43878, 10/31/88 .....	9903, 9905.
57 .....	Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Waste.	53 FR 43881, 10/31/88 .....	9903, 9905.
64 .....	Delay of Closure Period for Hazardous Waste Management Facilities*.	54 FR 33376, 08/14/89 .....	300:(2); (4)(a); (5)(a), 610:(3)(c)(ii)(A); (3)(c)(ii)(B); (4)(a); (4)(a)(ii)(A); (4)(b); (4)(b)(ii)(A); (4)(c); (4)(d); (4)(d)(i); (4)(d)(i)(A); (4)(d)(i)(B); (4)(d)(i)(C); (4)(d)(i)(D); (4)(d)(i)(E); (4)(d)(ii); (4)(d)(iii); (4)(d)(iv); (4)(e); (4)(e)(i); (4)(e)(i)(A); (4)(e)(i)(B); (4)(e)(ii); (4)(e)(iii); (4)(e)(iv); (4)(e)(iv)(A); (4)(e)(iv)(B); (4)(e)(iv)(C); (4)(e)(v); (4)(e)(vi); (4)(e)(vii); (4)(e)(vii)(A); (4)(e)(vii)(B); (4)(e)(vii)(C); (4)(e)(vii)(D); (4)(e)(vii)(E), 620:(3)(a)(iii); (3)(a)(iv), 300:(2); (4)(a); (5)(a), 400:(3)(a), 830:Appendix 1 D.(1)(f).
67 .....	Testing and Monitoring Activities.	54 FR 40260, 09/29/89 .....	110:(3)(a); (3)(f).
68 .....	Reportable Quantity Adjustment Methyl Bromide Production Waste.	54 FR 41402, 10/06/89 .....	9904, 110:(3)(f), 082:(4).
69 .....	Reportable Quantity Adjustment	54 FR 50968, 12/11/89 .....	9904, 082:(4), 9905.
72 .....	Modification of F019 Listing .....	55 FR 5340, 02/14/90 .....	9904.
73 .....	Testing and Monitoring Activities; Technical Corrections.	55 FR 8948, 03/09/90 .....	110:(3)(a), 110:(3)(f).
75 .....	Listing of 1,1-Dimethylhydrazine Production Wastes.	55 FR 18496, 05/02/90 .....	9904, 110:(3)(f), 082:(4).
77 .....	HSWA Codification Rule; Double Liners; Correction.	55 FR 19262, 05/09/90 .....	650:(2)(j), 665:(2)(h).
79 .....	Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emission Standards for Process Vents and Equipment Leaks.	55 FR 25454, 06/21/90 .....	110:(3)(g), 120:(4)(c); (4)(d); (4)(e), 300:(5)(f); 320:(2)(c), 380:(1)(c); (1)(f), 390:(3)(d), 690:(1)(a); (1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (2), 691:(1)(a); (1)(b); (b)(i); (1)(b)(ii); (1)(c); (1)(d); (1)(e); (2); 300:(5)(f), 320:(2)(c), 380:(1)(c); (1)(f), 390:(3)(d), 400:(3)(a), 806:(4)(a)(v); (4)(a)(viii)(D); (4)(a)(viii)(E); (4)(a)(viii)(F); (4)(j); (4)(j)(i); (j)(ii); (4)(j)(ii)(A); (4)(j)(ii)(B); (4)(j)(ii)(C); (4)(j)(iii); (4)(j)(iv); (4)(j)(iv)(A); (4)(j)(iv)(B); (4)(j)(iv)(C); (4)(j)(iv)(D); (4)(j)(iv)(E); (4)(k); (4)(k)(i); (4)(k)(i)(A); (4)(k)(i)(B); (4)(k)(i)(C); (4)(k)(i)(D); (4)(k)(i)(E); (4)(k)(i)(F); (4)(k)(ii); (4)(k)(iii); (4)(k)(iv); (4)(k)(v); (4)(k)(v)(A); (4)(k)(v)(B); (4)(k)(v)(C); (4)(k)(v)(D); (4)(k)(v)(E).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-...)
81 .....	Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 & F038).	55 FR 46354, 11/02/90; as amended on 12/17/90 at 55 FR 51707.	9904, 9904; ftnote: 2; 2(a); 2(b)(i); 2(b)(i)(i); 2(b)(i)(ii); 2(b)(i)(iii); 2(b)(ii); 2(b)(ii)(i); 2(b)(ii)(ii); 2(c)(i); 2(c)(ii); 2(c)(ii)(A); 2(c)(ii)(B), 082:(4).
84 .....	Toxicity Characteristic; Chlorofluoro-carbon Refrigerants*.	56 FR 5910, 02/13/91 .....	506: (2)(3).
86 .....	Removal of Strontium Sulfide From the List of Hazardous Wastes; Technical Amendment.	56 FR 7567, 02/25/91 .....	9903, 9904.
87 .....	Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment.	56 FR 19290, 04/26/91 .....	690: (1)(a); (1)(b); (2), 691:(2), 300:(5)(f), 380:(1)(c), 400:(3)(a), 806:(4)(j)(iv)(B); (4)(k)(v)(B).
89 .....	Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955, 05/13/91 .....	9904.
97 .....	Exports of Hazardous Waste; Technical Correction.	56 FR 43704, 09/04/91 .....	230:(1).
99 .....	Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations.	56 FR 66365, 12/23/91 .....	040, 400:(3)(a).
100 .....	Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units.	57 FR 3462, 01/29/92 .....	040, 320:(2)(c), 335:(1); (1)(a); (1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (1)(b)(iv); (1)(b)(v); (1)(b)(vi); (2); (2)(a); (2)(b); (2)(c); (3); (3)(a); (3)(a)(i); (3)(a)(ii); (3)(a)(iii); (3)(b); (4), 380:(1)(f), 650:(2)(j); (2)(j)(i); (2)(j)(i)(A); (2)(j)(i)(B); (2)(j)(ii); (2)(j)(iii); (2)(j)(iii)(A); (2)(j)(iii)(B); (2)(j)(iii)(C); (2)(j)(iii)(D); (2)(j)(iii)(E); (2)(j)(iv); (2)(j)(v); (2)(k); (2)(k)(i); (2)(k)(ii); (2)(m); (2)(m)(i); (2)(m)(ii); (2)(f); (g) (h); (i); (10)(a); (10)(b); (11)(a); (11)(b); (11)(b)(i); (11)(b)(ii); (11)(b)(iii); (11)(b)(iv); (11)(b)(v); (11)(b)(vi); (11)(c); (11)(c)(i); (11)(c)(ii); (11)(c)(iii); (11)(c)(iv); (4)(d)(i); (4)(d)(ii); (4)(d)(iii); (6)(b)(ii); (6)(b)(iii); (6)(b)(iv), 660:(2)(j); (2)(j)(i); (2)(j)(i)(A); (2)(j)(i)(B); (2)(j)(i)(C); (2)(j)(ii); (2)(j)(iii); (2)(j)(iii)(A); (2)(j)(iii)(B); (2)(j)(iii)(C); (2)(j)(iii)(D); (2)(j)(iii)(E); (2)(j)(iv); (2)(j)(v); (2)(k); (2)(k)(i); (2)(k)(ii); (2)(l); (2)(m); (2)(m)(i); (2)(m)(ii); (2)(d)(e); (f); (g); (h) & (i); (3)(a); (4)(a); (4)(b); (4)(b)(i); (4)(b)(ii); (4)(b)(iii); (4)(b)(iv); (4)(b)(v); (4)(b)(vi); (4)(c); (4)(c)(i)(A); (4)(c)(i)(B); (4)(c)(i)(C); (4)(c)(ii); (5)(c), 665:(h); (2)(h)(i); (2)(h)(i)(A); (2)(h)(i)(B); (2)(h)(i)(C); (2)(h)(ii); (2)(h)(iii); (2)(h)(iii)(A); (2)(h)(iii)(B); (2)(h)(iii)(C); (2)(h)(iii)(D); (2)(h)(iii)(E); (2)(h)(iv); (2)(h)(v); (j); (j)(i); (j)(ii); (2)(l); (2)(l)(i); (2)(l)(ii); (2)(c)-g; (8)(a); (8)(b); (4)(c)(i); (4)(c)(ii); (4)(c)(iii); (9)(a); (9)(b); (9)(b)(i); (9)(b)(ii); (9)(b)(iii); (9)(b)(iv); (9)(b)(v); (9)(b)(vi); (9)(c); (9)(c)(i); (9)(c)(ii); (9)(c)(iii); (9)(c)(iv); (6)(b)(ii); (6)(b)(iv)-(vi), 320:(2)(c), 400:(3)(a), 380:(1)(f), 810:(8)(a); (8)(a)(i); (8)(a)(ii); (8)(a)(iii), 806:(4)(d)(ii); (4)(d)(ii)(D); (4)(d)(ii)(E); (4)(d)(ii)(F); (4)(d)(ii)(G); (4)(d)(ii)(B) & (C); (d)(iv); (4)(e)(iii); (4)(e)(iii)(A)(I); (4)(e)(iii)(A)(II); (4)(e)(iii)(A)(III); (4)(e)(iii)(A)(IV); (4)(e)(iii)(A)(V); (4)(e)(v); (4)(h)(ii); (4)(h)(ii)(A)(I); (4)(h)(ii)(A)(II); (4)(h)(ii)(A)(III); (4)(h)(ii)(A)(IV); (4)(h)(ii)(A)(V); (4)(h)(iv), 830 appendix 1.
113 .....	Consolidated Liability Requirements: Financial Responsibility for Third-Party Liability, Closure, and Post-Closure.	53 FR 33938, 09/01/88; 56 FR 30200, 07/01/91; 57 FR 42832, 09/16/92.	620: (2)(h); (4)(b); (6)(b); (8)(a); (8)(b); (8)(f); (10), 400:(3)(a).
115 .....	Chlorinated Toluenes Production Waste Listing.	57 FR 47376, 10/15/92 .....	9904, 082:(4).
118 .....	Liquids in Landfills II .....	57 FR 54452, 11/18/92 .....	040, 300:(6)(c), 140:(4)(b)(i); (4)(b)(ii)(A)(II); (4)(b)(iv); (4)(b)(iv)(A); (4)(b)(iv)(A)(I); (4)(b)(iv)(A)(II); (4)(b)(iv)(A)(III); (4)(b)(iv)(B); (4)(b)(iv)(B)(I); (4)(b)(iv)(B)(II); (4)(b)(v); (4)(b)(v)(A); (4)(b)(v)(B), 161:(2); (3), 400:(3)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-...)
119 .....	Toxicity Characteristic Revision; TCLP Correction.	57 FR 55114, 11/24/92; as amended on 02/02/93 at 58 FR 6854.	110:(3)(f).
137 .....	Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Waste (HSWA/Non-HSWA).	59 FR 47982, 09/19/94; as amended at 60 FR 242, 01/03/95.	017:(5)(a); (5)(a)(ii); (5)(b)(i); (5)(b)(ii); (6); (7); (7)(a); (7)(b); (2)(iii), 600:(3)(n), 400:(2)(c)(ix), 505:(2)(c), 140:(2)(a).
14 .....	Dioxin Waste Listing and Management Standards*.	50 FR 1978, 01/14/85 .....	070:(8)(a); (7)(a), 081:(2)(a)(iv) & 082:(2)(b), 160:(2)(a); (2)(b)&(c), 082:(2)(a); 9904, 9903, 110:(3)(c); 082:(5); 9905, 110:(3)(d); 630:(7)(c), 650:(9)(a); (9)(b), 660:(10)(a); (10)(b), 655:(12)(a); (12)(b), 140:(2)(a), 600:(6) & 665:(1); 670:(4)(a)(i), 400:(3)(a), 806:(4)(a)(vii); (4)(c)(vii); (4)(d)(x); (4)(e)(x); (4)(g)(viii); (4)(h)(vii).
60 .....	Amendment to Requirements for Hazardous Waste Incinerator Permits.	54 FR 4286, 01/30/89 .....	807:(10).
49 & 129 (Consolidated Checklist).	Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption* as of 06/30/94.	53 FR 27290, 07/29/88; 59 FR 8362, 02/18/94.	040, 071:(3)(r)(i); (3)(r)(i)(A); (3)(r)(i)(B); (3)(r)(i)(C); (3)(r)(ii); (3)(r)(ii)(A); (3)(r)(ii)(B); (3)(r)(ii)(C); (3)(r)(iii)(C)(I); (3)(r)(iii)(C)(II); (3)(r)(iii)(D); (3)(r)(iii)(E); (3)(r)(iii)(E)(I)-(III); (3)(r)(iii)(F); (3)(r)(iii); (3)(r)(iii); (3)(r)(iii)(A); (3)(r)(iii)(B); (3)(r)(iii)(C); (3)(r)(iii)(C)(I); (3)(r)(iii)(C)(II); (3)(r)(iii)(C)(III); (3)(r)(iii)(C)(IV); (3)(r)(iii)(C)(V); (3)(s); (3)(s)(i); (3)(s)(ii); (3)(s)(iii); (3)(s)(iv); (3)(s)(v); (3)(s)(vi); (3)(s)(vii); (3)(s)(vii); (A thru G); (3)(s)(viii); (3)(s)(ix); (3)(s)(ix)(A thru G); (3)(s)(x); (3)(r)(i)(D); (3)(s)(xi).
82, 91, 92, 101, & 120 (Consolidated checklist).	Wood Preserving Listing* as of 06/30/94.	55 FR 50450, 12/06/90; 56 FR 27332, 06/13/91; 56 FR 30192, 07/01/91; 57 FR 5859, 02/18/92; 57 FR 61492, 12/24/92.	040, 071:(3)(w)(i); (3)(w)(ii), 9904, 083:(1); (2); (2)(a); (2)(a)(i); (2)(a)(ii); (2)(a)(iii); (2)(b); (2)(b)(i); (2)(b)(i)(A); (2)(b)(i)(B); (2)(b)(i)(C); (2)(b)(i)(D); (2)(b)(i)(E); (2)(b)(ii); (2)(b)(ii)(A); (2)(b)(ii)(B); (2)(b)(iii); (2)(b)(iii)(A); (2)(b)(iii)(B); (2)(b)(iv); (2)(c); (2)(c)(i); (2)(c)(i)(A); (2)(c)(i)(B); (2)(c)(i)(C); (2)(c)(ii); (2)(d); (3); (3)(a); (3)(b); (3)(c); (3)(d); (3)(e); (3)(f); (3)(g); (3)(h); (3)(i); (3)(j); (3)(k); (3)(l), 110:(3)(f), 082:(4), 9905, 200:(1)(b); (1)(b)(i); (1)(b)(ii); (1)(b)(iii); (1)(b)(iii)(A); (1)(b)(iii)(B); (1)(c), 640:(1); (1)(d), 675:(1)(a); (1)(b); (1)(c); (1)(c)(i); (1)(c)(ii); (1)(c)(iii); (1)(c)(iv); (2)(a); (2)(b); (2)(c); (2)(d); (3); (3)(a); (3)(b); (4)(a); (4)(a)(i); (4)(a)(ii); (4)(a)(iii); (4)(a)(iv)(A); (4)(a)(iv)(B); (4)(a)(v); (4)(b); (4)(b)(i); (4)(b)(i)(A); (4)(b)(i)(B); (4)(b)(i)(C); (4)(b)(ii); (4)(b)(ii)(A); (4)(b)(ii)(A)(I); (4)(b)(ii)(A)(II); (4)(b)(ii)(B); (4)(b)(ii)(C); (4)(b)(iii); (4)(c); (4)(d); (4)(e); (4)(f); (4)(g); (4)(h); (4)(i); (4)(j); (4)(k); (4)(l); (4)(m); (4)(m)(i); (4)(m)(i)(A); (4)(m)(i)(B); (4)(m)(i)(C); (4)(m)(i)(D); (4)(m)(ii); (4)(m)(iii); (4)(n); (4)(o); (5)(a); (5)(b); (5)(b)(i); (5)(b)(ii); (5)(b)(iii); (6)(a); (6)(b); (6)(c)(i); (6)(c)(i)(A); (6)(c)(i)(B); (6)(c)(ii); 400:(3)(a), 806:(4)(l); (4)(l)(i); (4)(l)(ii); (4)(l)(iii); (4)(l)(iii)(A); (4)(l)(iii)(B); (4)(l)(iii)(C); (4)(l)(iii)(D); (4)(l)(iii)(E); (4)(l)(iii)(F); (4)(l)(iii)(G); (4)(l)(iii)(H); (4)(l)(iii)(I); (4)(l)(iii)(J); (4)(l)(iii)(K); (4)(l)(iii)(L); (4)(l)(iii)(M); (4)(l)(iii)(N); (4)(l)(iii)(O); (4)(l)(iii)(P).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-...)
34, 39, 50, 62, 63, 66, 78, 83, 95, 102, 103, 106, 109, 116, 123 & 124 (Consolidated checklist).	Land Disposal Restrictions* as of 06/30/94.	51 FR 40572, 11/07/86; 52 FR 21010, 06/04/87; 52 FR 25760, 07/08/87; 52 FR 41295, 10/27/87; 53 FR 31138, 08/17/88; 54 FR 8264, 02/27/89; 54 FR 18836, 05/02/89; 54 FR 26594, 06/23/89; 54 FR 36967, 09/06/89; 55 FR 23935, 06/13/90; 55 FR 22520, 06/01/90; 56 FR 3864, 01/31/91; 56 FR 41164, 08/19/91; 57 FR 8086, 03/06/92; 57 FR 20766, 05/15/92; 57 FR 28628, 06/26/92; 57 FR 37194, 08/18/92; 57 FR 47772, 10/20/92; 58 FR 28506, 05/14/93; 58 FR 29860, 05/24/93.	Chapter 42.17 RCW; RCW, 43.21A.160, (WAC 173-303-...) 040, 110:(3)(g); 090:(5)(a)(i), 910:(1)(a); (2); (4), 016:(a), 071:(3)(bb)(i); (3)(bb)(ii); (2)(a)(ii)(A); (2)(c); (2)(c)(i); (2)(c)(ii); (3)(x); (3)(n); (3)(l); (3); 070:(2)(a)(ii)(A); (2)(c); (8)(a) & (b); (3)(a)(iii); (1)(b); (1)(b) & (7)(a) & (7)(c); (7); (8)(a); (6), 081:(2); (1)(c); 120:(2)(a); (4)(d), 160:(3), 090:(5)(b); (6)(b); (7)(b); (8)(b), 9904; 082:(4), 200:(1)(b)(iii); (1)(b)(iii)(B); (1)(b)(iv); (1)(b)(iv)(A); (1)(b)(iv)(B); (1)(c); (1)(e) & (f), 201:(2), 230:(3)(b); 240:(5), 600:(3)(n); (6), 300:(2); (5)(f); (5)(h); (5)(h)(i); (5)(h)(ii); (5)(h)(iii); (5)(h)(iii)(A); (5)(h)(iii)(B); (5)(h)(iii)(B)(I); (5)(h)(iii)(B)(II), 380:(1)(c); (1)(i); (1)(j); (1)(k); (1)(l); (1)(m); (1)(n); (1)(o), 610:(b); (1)(b); (2)(b); (3)(a); (1)(b)(i); (1)(b)(iv); (1)(b)(ii); (1)(b)(v); (3)(a), 650:(7), 660:(7), 655:(9), 665:(10)(a); (8)(b), 161:(7), 695, 400:(2)(c)(ix); (4); (3)(a), 505:(1)(b), 140:(2)(a), 806:(2); (4)(a)(ii); (4)(a)(xviii)(M); (3), 800:(8), 830:(4)(e)(iii)(B), 830 Appendix 1:B.1.b.; B.1.c.; B.1.d.; 1.6.; M, 805:(7)(b)(vi); (7)(b).
17C .....	Household Waste .....	50 FR 28702, 07/15/85 .....	071:(3)(c).
17E .....	Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves.	50 FR 28702, 07/15/85 .....	280:(5).
17G .....	Dust Suppression* .....	50 FR 28702, 07/15/85 .....	505:(2)(c); (2)(d).
17M .....	Pre-construction Ban* .....	50 FR 28072, 07/15/85 .....	806:(5).
17O .....	Omnibus Provision .....	50 FR 28702, 07/15/85 .....	810:(19).
58 .....	Standards for Generators of Hazardous Waste; Manifest Renewal.	53 FR 45089, 11/08/88 .....	180:(1).
70 (Changes to Part 124 Not Accounted for by Present Checklist).	Environmental Permit Regulations; RCRA Hazardous Waste; SDWA Underground Injection Control; CWA National Pollutant Discharge Elimination System; CWA Section 404 Dredge or Fill Programs; and CAA Prevention of Significant Deterioration (See Revision Checklist 70 in Non-Hwsa Cluster VI) Hazardous Waste Management System; Permit Program; Requirements for Authorization of State Programs; Procedures for Decision making; Identification and Listing of Hazardous Waste; Standards for Owners and Operators of Hazardous Waste Storage, Treatment, and Disposal Facilities; Correction, Safe Drinking Water Act; National Drinking Water Regulations; Indian Lands, National Pollutant Discharge Elimination System Permit Regulations.	48 FR 14146, 04/01/83; 48 FR 30113, 06/30/83; 53 FR 28118, 07/26/88; 53 FR 37396, 09/26/88; 54 FR 246, 01/04/89.	806:(2), 840:(1); (10)(a); (10)(b) & (d); (10)(e); (2)(d)(i) & (ii); (2)(d)(iii); (3)(e)(i)(C); (3)(e)(i)(D); (3)(e)(i)(E); (5)(a).
71 .....	Mining Waste Exclusion II** .....	55 FR 2322, 01/23/90 .....	040, 180:(3)(f).
110 .....	Coke By-Products Listings .....	57 FR 37284, 08/18/92 .....	071:(3)(cc), 9904, 082:(4).
126 .....	Testing and Monitoring Activities*.	58 FR 46040, 08/31/93; as amended 09/19/94 at 59 FR 47980.	110:(3)(a); (3)(h)(iii); (3)(f); (1), 910:(4)(a), 090:(6)(a)(i); (6)(a)(ii); (8)(a), 640:(1)(b), 140:(4)(b)(iii); (2)(a), 400:(3)(a), 806:(4)(f)(iii)(A)(III); (4)(f)(iii)(A)(IV), 807:(2)(a)(iii); (2)(a)(iv).
128 .....	Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection.	59 FR 458, 01/04/94 .....	110:(3)(a), 9905.
131 .....	Record keeping Instructions; Technical Amendment.	59 FR 13891, 03/24/94 .....	380:(2)(c) Table 1; (2)(d) Table 2.
133 .....	Letter of Credit Revision .....	59 FR 29958, 06/10/94 .....	620:(10).
134 .....	Correction of Beryllium Powder (P015) Listing.	59 FR 31551, 06/20/94 .....	9903, 9905, 140:(2)(a).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-. . .)
135 .....	Recovered Oil Exclusion .....	59 FR 38536, 07/28/94 .....	071:(3)(p); (3)(cc), 120:(2)(a)(v); (2)(a)(vi), (2)(a)(viii); (2)(a)(ix).
136 .....	Removal of the Conditional Exemption for Certain Slag Residues.	59 FR 43496, 08/24/94 .....	505:(1)(b)(ii), 140:(2)(a).
139 .....	Testing and Monitoring Activities Amendment I.	60 FR 3089, 01/13/95 .....	110:(3)(a).
140 .....	Carbamate Production Identification and Listing of Hazardous Waste*.	60 FR 7824, 02/09/95; as amended at 60 FR 19165, 04/17/95; and at 60 FR 25619, 05/12/95.	071:(3)(dd), 9904, 9903, 082:(4), 9905.
141 .....	Testing and Monitoring Activities Amendment II.	60 FR 17001, 04/04/95 .....	110:(3)(a).
142 .....	Universal Waste Rule: .....	60 FR 25492, 05/11/95 .....	040:intro, 070:(7)(c); (7)(c)(i); (7)(c)(iii); (7)(c)(iv); (7)(c)(v); (8)(b)(iii); (8)(b)(iii)(A)-(C) & (E); (8)(b)(iii)(D); (8)(b)(iii)(G); 077 intro, 070:(1)(c); (7); (8); (b); 600:(3)(o), 400:(2)(ix), 140:(2)(a), 800:(7)(c)(iii), 573:(1)(a); (1)(b); (4)(a); (4)(a)(i); (4)(a)(ii); (4)(b), 040, 573:(6); (7); (7)(a); (7)(b); (8); (10); (11)(a); (11)(b); (11)(c); (11)(c)(i); (11)(c)(ii); (11)(c)(iii); (11)(c)(iv); (11)(c)(v); (11)(c)(vi); (12); (13)(a); (13)(b); (14)(a); (14)(b); (14)(c); (14)(d); (14)(e); (14)(e)(i); (14)(e)(ii); (14)(f); (14)(f)(i); (14)(f)(ii); (14)(g); (14)(h); (15); (16); (16)(a); (16)(b); (16)(c); (17); (18); (18)(a); (18)(b); (19)(a)(i); (19)(a)(ii); (19)(b); (19)(b)(i); (19)(b)(ii); (19)(b)(iii); (19)(b)(iv); (19)(b)(v); (21); (22)(a); (22)(b); (22)(c); (22)(c)(i); (22)(c)(ii); (22)(c)(iii); (22)(c)(iv); (22)(c)(v); (22)(c)(vi); (23); (24)(a); (24)(b); (25)(a); (25)(b); (25)(c); (25)(d); (25)(e); (25)(e)(i); (25)(e)(ii); (25)(f); (25)(f)(i); (25)(f)(ii); (25)(g); (25)(h); (26)(a); (26)(a)(i); (26)(a)(ii); (26)(a)(iii); (26)(b); (26)(b)(i); (26)(b)(ii); (26)(b)(iii); (26)(c)(i); (26)(c)(ii); (27); (27)(a); (27)(b); (27)(c); (28); (29); (29)(a); (29)(b); (30)(a); (30)(b); (31)(a); (31)(b); (32)(a); (32)(b); (33)(a); (33)(b); (34); (34)(a); (34)(b); (35)(a); (35)(b); (36)(a); (36)(b); (36)(b)(i); (36)(b)(ii); (36)(c); (36)(d); (37)(a); (37)(a)(i); (37)(a)(ii); (37)(a)(iii); (37)(b); (38); (38)(a); (38)(b); (38)(c).
142B .....	Specific Provisions for Batteries	60 FR 25492, 05/11/95 .....	040, 120:(2)(iv); (v); (vii); (viii), 077:(a), 600:(3)(o)(i), 400:(2)(c)(xi)(A), 520:(intro); (1); (2), 140:(2)(a), 800:(7)(c)(iii)(A), 573:(1)(a)(i); (2)(a)(i); (2)(a)(ii); (2)(b); (2)(b)(i); (2)(b)(ii); (2)(b)(iii); (2)(c)(i); (2)(c)(ii); (9)(a); (9)(a)(i); (9)(a)(ii); (9)(a)(ii)(A); (9)(a)(ii)(B); (9)(a)(ii)(C); (9)(a)(ii)(D); (9)(a)(ii)(E); (9)(a)(ii)(F); (9)(a)(ii)(G); (9)(a)(iii); (9)(a)(iii)(A); (9)(a)(iii)(B); (10)(a); (20)(a); (20)(a)(i); (20)(a)(ii); (20)(a)(ii)(A); (20)(a)(ii)(B); (20)(a)(ii)(C); (20)(a)(ii)(D); (20)(a)(ii)(E); (20)(a)(ii)(F); (20)(a)(ii)(G); (20)(a)(iii); (20)(a)(iii)(A); (20)(a)(iii)(B); (21)(a).
142D .....	Specific Provisions for Thermostats.	60 FR 25492, 05/11/95 .....	040, 077:(b), 600:(3)(o)(ii), 400:(2)(c)(xi)(B), 140:(2)(a), 800:(7)(c)(iii)(B), 573:(1)(a)(ii); (3)(a); (3)(b); (3)(b)(i); (3)(b)(ii); (3)(c)(i); (3)(c)(ii); (9)(b); (9)(b)(i); (9)(b)(ii); (9)(b)(ii)(A); (9)(b)(ii)(B); (9)(b)(ii)(C); (9)(b)(ii)(D); (9)(b)(ii)(E); (9)(b)(ii)(F); (9)(b)(ii)(G); (9)(b)(ii)(H); (9)(b)(iii)(A); (9)(b)(iii)(A)(I); (9)(b)(iii)(A)(II); (9)(b)(iii)(B); (9)(b)(iii)(C); (10)(b); (20)(b); (20)(b)(i); (20)(b)(ii); (20)(b)(ii)(A); (20)(b)(ii)(B); (20)(b)(ii)(C); (20)(b)(ii)(D); (20)(b)(ii)(E); (20)(b)(ii)(F); (20)(b)(ii)(G); (20)(b)(ii)(H); (20)(b)(iii)(A); (20)(b)(iii)(A)(I); (20)(b)(iii)(A)(II); (20)(b)(iii)(B); (2)(b)(iii)(C); (21)(b).
142E .....	Petition Provisions to Add a New Universal Waste.	60 FR 25492, 05/11/95 .....	910:(1)(a); (7)(a); (2)(b); (7)(c); (7)(d), 573:(39)(a); (39)(b); (39)(c); (40)(a); (40)(b); (40)(c); (40)(d); (40)(e); (40)(f); (40)(g); (40)(h).
145 .....	Liquids in Landfills III .....	60 FR 35703, 07/11/95 .....	140:(4)(b)(iv)(A)(II); (4)(b)(iv)(A)(III).
150 .....	Amendments to the Definition of Solid Waste; Amendment II: Recovered Oil Exclusion, Correction.	61 FR 13103, 03/26/96 .....	071:(3)(cc).

Checklist	Federal requirements	Federal Register	Analogous State Authority (WAC 173-303-. . .)
159 .....	Conformance with the Carbamate Vacatur: Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions.	62 FR 32974, 06/17/97 .....	9904, 9903, 9905, 082:(4), 140:(2)(a).

\*Indicates State provision is more stringent.

\*\*Indicates State provision is broader in scope.

### G. Where Are the Revised State Rules Different From the Federal Rules?

Certain portions of the federal program are not delegable to the states because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. EPA does not delegate import/export functions. Under the RCRA regulations found in 40 CFR Part 262 EPA will continue to implement requirements for import/export functions. EPA does not delegate sections of 40 CFR part 268 because of the national concerns that must be examined when decisions are made under the following Federal Land Disposal Restriction requirements: 40 CFR 268.5—Procedures for case-by-case effective date extensions; 40 CFR 268.6—"No migration" petitions; 40 CFR 268.42(b)—applications for alternate treatment methods; and 40 CFR 268.44(a)–(g)—general treatment standard variances. Washington's state program has excluded these requirements from its state regulations and EPA will continue to implement these requirements. The Federal Land Disposal Restrictions governing site-specific variances, 40 CFR 268.44(h)–(m) are delegable to the states but the State program excluded the requirements of 40 CFR 268.44(i)–(m) from its state regulations. EPA will continue to implement these requirements. The state program is authorized under today's rulemaking, effective on the effective date of this rule, for its regulation equivalent to 40 CFR 268.44(h).

States are allowed to seek authorization for state requirements that are more stringent than federal requirements. EPA has authority to authorize and enforce those parts of a state's program EPA finds to be more stringent than the federal program. The following state regulations are more stringent than the federal provisions and are part of the State's authorized program:

Exports of Hazardous Waste (51 FR 28664, 8/8/86, Checklist 31): The State regulation WAC 173-303-220(1)(a), as applicable to U.S. shipments and U.S. sites, is more stringent than the federal requirements found at 40 CFR 262.41(a)

because, as to those U.S. shipments and U.S. sites, the State program requires annual reporting whereas the federal rule requires biennial reporting.

Exception Reporting for Small Quantity Generators of Hazardous Waste (52 FR 35894, 9/23/87, Checklist 42): The State regulations WAC 173-303-210, 220 and 220(2)(a) are more stringent for exception reporting for generators of 100 to 1,000 kg/month because the state regulations require such generators to follow the same requirements as generators of greater than 1000 kg/month. The State is also more stringent at WAC 173-303-220(2)(d) because the State program can require a generator to submit exception reports in less time than the federal program if the generator endangers public health or the environment.

Corrective Action for Injection Wells (52 FR 45788, 12/1/87, Checklist 44C): The State's regulation for "permit by rule," WAC 173-303-802(3), for injection wells is more stringent than the federal requirements 40 CFR 264.101, 270.60(b)(3)(i) and (b)(3)(ii) because the State program requires compliance with WAC 173-303-060, the use of notification and identification numbers. The State program's prohibition on the disposal of state-only extremely hazardous waste (EHW) in underground injection wells is a provision that is broader in scope than the federal program and is not authorized as part of this decision.

Treatability Studies Sample Exemption (53 FR 27290, 7/29/88, Checklist 49): The State's program has two provisions for which the State is more stringent than the federal requirements found at 40 CFR 261.4(e)(2)(vi) and 40 CFR 261.4(f). At WAC 173-303-071(3)(r)(ii)(F) and WAC 173-303-071(3)(s) the state requires annual rather than biannual reports. The State also has provisions at 173-303-071(3)(s)(xii) and (xiii) which are more stringent than federal requirements because they require the date, the words hazardous or dangerous waste and the major risks associated with the waste to be marked on each container. The State program's provision at 173-303-071(3)(r)(i)(D) is not considered more stringent but is a clarification consistent

with the Federal rule 40 CFR 261.4(f)(10).

Delay of Closure Period for Hazardous Waste Management Facilities (54 FR 33376, 8/14/89, Checklist 64): The State's regulation WAC 173-303-610(3)(c)(ii)(A) is more stringent than the federal requirement found at 40 CFR 264.112(d)(2)(i) because it requires the owner or operator to continue to take steps to prevent threats to human health and the environment beyond those otherwise required by the federal regulation.

Toxicity Characteristic: Chlorofluorocarbon Refrigerants (56 FR 5910, 2/13/91, Checklist 84): The State's regulations, WAC 173-303-506(2) and (3), are more stringent than the federal requirement found at 40 CFR 261.4(b)(12) because the state program includes generator record keeping requirements and facility requirements.

Wood Preserving Listings (56 FR 30192, 7/1/99, Checklist 92): The State's regulation WAC 173-303-200(1)(b)(i) is more stringent than the Federal requirements found at 40 CFR 262.34(a)(1)(i) because of the following cross citations:

- At WAC 173-303-640(2), analog to 40 CFR 265.171, the State program requires the owner or operator to address leaks, spills and discharges into the environment and in emergencies;

- At WAC 173-303-640(3), the State program requires the owner or operator to label containers to identify the major risks associated with the contents of the container;

- The State program specifies at WAC 173-303-640(5), analog to 40 CFR 265.173, a minimum aisle space between containers and that a row of containers must be no wider than 2 drums;

- The State program requires at WAC 173-303-640(6), analog to 40 CFR 265.174, that an inspection log must be maintained;

- The State has particular requirements for incompatible wastes, WAC 173-303-640(10), for closure; and
- The State program has authority to require secondary containment.

The State's wording although different at WAC 173-303-640(8), analog to 40 CFR 265.176, is equivalent



to the federal program because the State requires that containers be stored in a manner equivalent to the Uniform Fire Code.

The State's regulation WAC 173-303-200(l)(b)(ii) is more stringent than the Federal requirements found at 40 CFR 262.34(a)(l)(ii), because of the following cross citations:

- WAC 173-303-640(2)(e) and WAC 173-303-640(3)(b) in the state program require scheduling integrity assessments;

- WAC 173-303-640(5)(d) and (e) provide additional protective requirements in the state program: WAC 173-303-640(5)(d) requires the operator to label tanks to identify the waste contained in the tank; WAC 173-303-640(5)(e) requires all tank systems that hold dangerous wastes that are acutely or chronically toxic by inhalation to be designed to prevent the escape of vapors, fumes or other emissions into the air;

- WAC 173-303-640(7)(d)(i) is more stringent than the Federal analog, 40 CFR 265.196(d) because the State program requires a facility to report, whichever is the less, any release greater than or equal to one pound, or the reportable quantity, while the federal regulation requires reporting only of releases that equal or exceed one pound;

- WAC 173-303-640(9)(b) is more stringent than the Federal analog at 40 CFR 265.198(b) because the State program requires that tanks be located in a manner equivalent either to the National Fire Protection Association's buffer zone requirements (the Federal requirement) or as required by State and local fire codes, whichever is more stringent; furthermore, the state program is also more stringent in its requirement for yearly inspections.

Land Disposal Restrictions (51 FR 40572, 11/7/86 and 52 FR 21010, 6/4/87, Checklist 34): The State regulation WAC 173-303-120(2)(a) is more stringent than the federal requirement found at 40 CFR 261.6(a)(3) as the state has additional requirements for recyclable materials: WAC 173-303-050 provides authority to take action for a discharge or a potential discharge or release into the environment, WAC 173-303-145 provides authority to require a responsible person to address spills and discharges into the environment. WAC 173-303-960 provides regulatory authority to address imminent and substantial endangerment to health or the environment. EPA has statutory authority to address imminent and substantial endangerment to health or the environment and does not consider this state regulation to be more stringent than EPA's existing statutory authority

under the federal RCRA program. To the extent the state has authority to address imminent and substantial endangerment to health or the environment as a regulatory requirement under the state program directly applicable to the recyclable materials, EPA considers the State program to be equivalent to the federal program.

Pre-construction Ban (50 FR 28702, 7/15/85, Checklist 17M): The State is more stringent because it chose not to adopt the optional and less stringent federal requirement at 40 CFR 270.10(f)(3) for construction of TSCA PCB incineration.

Testing and Monitoring Activities (58 FR 46040, 8/31/93, Checklist 126): The State regulation WAC 173-303-910(4)(a) is more stringent than the federal requirement at 40 CFR 260.22(d)(1)(i) because the State does not exclude wastes that are considered hazardous under 40 CFR Part 261, but only has authority to exclude wastes that EPA has excluded under the petition process as hazardous wastes.

Carbamate Production Identification and Listing of Hazardous Waste (60 FR 7824, 2/9/95, amended at 60 FR 19165, 4/17/95 and at 60 FR 25619, 5/12/95 Checklist 140): The State is more stringent because it does not include the de minimus wastewater "exclusions" found in the federal program at 40 CFR 261.3(a)(2)(iv)(E), (F) and (G).

Universal Waste: General Provision (60 FR 25492, 5/11/95 Checklist 142A): The State is more stringent because it chose not to adopt a counting exclusion for hazardous waste managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10.

Dust Suppression (50 FR 28702, 7/15/85, Checklist 17G): The State regulation WAC 173-303-505(2)(d) is more stringent than the federal requirement at 40 CFR 266.23(b) because the State rule does not contain the exception for waste identified solely on the basis of ignitability. Therefore the State prohibits the use of waste or used oil or other material which is contaminated with dioxin or any other hazardous waste, including those wastes that are ignitable, for dust suppression or road treatment.

The State is not seeking authorization for the Standards for the Management of Waste Fuel and Used Oil for the Burning of these Materials in Boilers and Industrial Furnaces, 40 CFR 266.102 through 40 CFR 266.111. The State did not adopt these federal provisions as state law. EPA is implementing these BIF requirements in

Washington State under EPA's HSWA authority.

States are not allowed to seek authorization for state requirements that are broader in scope than federal requirements. EPA does not have authority to authorize and enforce those parts of a state's program EPA finds to be broader in scope than the federal program. EPA has found the following state requirements to be broader in scope than the federal hazardous waste program and is not authorizing the following requirements as part of the State's authorized program: Mining Waste Exclusion II (55 FR 2322, 1/23/90 Checklist 71). The State analogs are broader in scope than the federal requirements, except for WAC 173-303-040 and WAC 173-303-180(3)(f) which are equivalent to the federal analogs 40 CFR 260.10 and 40 CFR 262.23(e) respectively, because the State has not adopted an analog to 40 CFR 261.4(b)(7)—exclusions for solid waste from the extraction, beneficiation, and processing of ores and minerals. The state's lack of an analog for the federal exclusion of mixtures of solid waste and hazardous waste which are hazardous based solely on a hazardous characteristic imparted to the waste as a result of a Bevill characteristic, 40 CFR 261.3(a)(2)(iii), is also broader in scope than the federal program.

Although State programs can be authorized where they are more stringent than the federal program, state programs cannot be authorized where they are less stringent. EPA finds the state regulations for spent antifreeze at WAC 173-303-120(3)(h) are less stringent than the federal provisions to the extent that the state program would construe characteristic spent antifreeze as a state-only waste. The effect of the State rule would be to exempt antifreeze that exhibits the toxicity characteristic from the requirements applicable to wastes exhibiting the toxicity characteristic. EPA has articulated its position in numerous rules that spent antifreeze exhibiting a characteristic may pose a threat to human health and the environment and requires generators and recyclers to comply with existing federal regulations with respect to characteristic hazardous waste. Antifreeze which exhibits the toxicity characteristic remains a hazardous waste under the State's authorized program. The direct impact of EPA's finding to generators and recyclers is that such persons are not exempted from the State's federally authorized requirements for antifreeze that exhibits the toxicity characteristic.

States sometimes make changes to their previously authorized programs

that result in a state regulation being found equivalent where the regulation may have been found more stringent at the time of initial authorization. On April 29, 1996, the State received final authorization for the federal dioxin wastes requirements, (50 FR 1978, January 14, 1985) and the definition of empty for dioxin residues in containers was determined to be more stringent than the federal program. The State has amended its definition of empty for dioxin residues in containers and is seeking reauthorization for this change. With today's rulemaking the State analog for definition of empty, found at WAC 173-303-160(2)(a), has been determined to be equivalent to the federal requirement found at 40 CFR 261.7(b)(1).

On April 29, 1996, the State received final authorization for the federal rule Amending Requirements for Hazardous Waste Incinerator Permits (54 FR 4286, January 30, 1989) and the state's analog, WAC 173-303-807(10) requirement for existing incinerator facilities to either conduct a trial burn or submit other information as specified in 40 CFR 270.19(a) or (c) before a permit can be issued to that facility, was determined to be more stringent than the federal program. The State has amended the more stringent requirement and is seeking reauthorization for this change. With today's rulemaking the State analog WAC 173-303-807(10) has been determined to be equivalent to the federal requirement found at 40 CFR 270.62(d).

#### **H. Who Handles Permits After This Authorization Takes Effect?**

Washington will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit. Upon the effective date of the issuance, or re-issuance after modification to incorporate authorized State requirements of a State RCRA permit, those EPA-issued permit provisions which the State is authorized to administer and enforce will expire. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit. EPA will continue to implement and issue permits for HSWA requirements for which Washington is not yet authorized.

#### **I. How Does Today's Action Affect Indian Country (18 U.S.C. Section 1151) in Washington?**

EPA's decision to authorize the Washington hazardous waste program does not include any land that is, or becomes after the date of this authorization, "Indian Country," as defined in 18 U.S.C. 1151, with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the "1873 Survey Area" or "Survey Area") located in Tacoma, Washington. EPA retains jurisdiction over "Indian Country" as defined in 18 U.S.C. 1151.

Effective October 22, 1998 (63 FR 50531, September 22, 1998) Washington's state program was authorized to implement the state authorized program on the non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation. The authorization did not extend to trust lands within the reservation. EPA retains its authority to implement RCRA on trust lands and over Indians and Indian activities within the 1873 Survey Area.

A complete discussion of the background for this authorization determination can be found in **Federal Registers** dated July 7, 1998 (63 FR 36652) for the proposed rule and an immediate final rule (63 FR 36587), August 21, 1998 to withdraw the immediate final rule in response to adverse comment (63 FR 44795), and September 22, 1998 to publish a response to comment and final rule granting authorization (63 FR 50531).

#### **J. What is Codification and Is EPA Codifying Washington Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR Part 272. We reserve the amendment of 40 CFR Part 272, Subpart WW for this authorization of Washington's program until a later date.

#### **K. Regulatory Analysis and Notices**

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit

analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Washington program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or

operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

#### *Certification Under the Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### *Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *Compliance With Executive Order 12866*

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

#### *Compliance With Executive Order 12875*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

#### *Compliance With Executive Order 13045*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

#### *Compliance with Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Washington is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

#### *Compliance With Executive Order 12612*

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, 64 FR 43255 (August 10, 1999), which will take effect on November 2, 1999. In the interim, the current Executive Order

12612, 52 FR 41685 (October 30, 1987), on federalism still applies. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. This rule simply approves the State of Washington's proposal to be authorized for updated requirements of the hazardous waste program that the state has voluntarily chosen to operate.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

#### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### **List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 24, 1999.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

[FR Doc. 99-25561 Filed 10-8-99; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 271**

[FRL-6454-1]

#### **Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Today's action finalizes EPA's decision to grant authorization to the Commonwealth of Massachusetts for certain revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revisions addressed by this action include two rules promulgated by the Environmental Protection Agency: the Toxicity Characteristics (TC) Rule (including subsequent revisions to that rule) and the Universal Waste Rule (UWR). The Agency finds that the State's hazardous waste program revisions, except for a provision which relates to the TC Rule and exempts intact Cathode Ray Tubes (CRTs) from hazardous waste regulation, satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA is taking action to approve the authorization of Massachusetts for the UWR and the TC Rule for all wastes other than CRTs. At this time, EPA defers action relating to CRTs; however, the agency plans to address this issue in a future **Federal Register** document.

**DATES:** The approval of Massachusetts' program revisions shall become effective without further notice on October 12, 1999.

**ADDRESSES:** Copies of the Commonwealth of Massachusetts' revision application and related materials which support the basis for EPA's authorization decision (the "Administrative Record") are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292-5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918-1990.

**FOR FURTHER INFORMATION CONTACT:** Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114-2023; Telephone: (617) 918-1642.

**SUPPLEMENTARY INFORMATION:**

#### **A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

#### **B. What Decisions Have We Made In This Rule?**

##### *1. Background*

On January 8, 1998, Massachusetts submitted a final program revision application relating to the Satellite Accumulation Rule, UWR and TC Rule seeking authorization of its program revision in accordance with 40 CFR 271.21. On September 30, 1998, the EPA granted authorization to the Massachusetts hazardous waste management program for the Satellite Accumulation Rule only and deferred a decision relative to the TC and UWR portions of the application due to the unresolved CRT issues (63 FR 52180).

##### *2. The Proposed Rule*

On February 24, 1999 EPA published in the **Federal Register** a proposed rule announcing its plan to authorize Massachusetts for the TC Rule and the UWR excluding those provisions which relate to CRTs (64 FR 9110). Also, at that time, the agency proposed to disapprove a provision of the Massachusetts hazardous waste regulations at 310 CMR 30.104(21) relating to CRTs. A forty-five (45) day extension to the thirty (30) day comment period of this proposal was requested by Massachusetts and granted in the **Federal Register** on March 24, 1999 (64 FR 14201) thereby extending the public comment period from March 26, 1999 to May 10, 1999.

##### *3. Recent Developments*

Since the publication of the proposed disapproval, the EPA and Massachusetts Department of Environmental Protection