

Chapter 173-226 WAC

WASTE DISCHARGE GENERAL PERMIT PROGRAM

WAC

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WAC 173-226-010 Purpose. The purpose of this chapter is to establish a state general permit program, applicable to the discharge of pollutants, wastes, and other materials to waters of the state, including discharges to municipal sewerage systems. Permits issued under this chapter are designed to satisfy the requirements for discharge permits under sections 307 and 402(b) of the federal Water Pollution Control Act (33 U.S.C. §1251) and the state law governing water pollution control (chapter 90.48 RCW).

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-010, filed 5/5/93, effective 5/19/93.]

WAC 173-226-020 Permit required. No pollutants shall be discharged to waters of the state from any point source, except as authorized by an individual permit issued pursuant to chapters 173-216 and 173-220 WAC, or as authorized through coverage under a general permit issued pursuant to this chapter. Coverage under a valid general permit issued prior to the existence of this chapter will satisfy the permit requirements of this section.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-020, filed 5/5/93, effective 5/19/93.]

WAC 173-226-030 Definitions. For purposes of this chapter, the following definitions shall be applicable:

- (1) "Administrator" means the administrator of the United States Environmental Protection Agency.
- (2) "Application for coverage" means a form developed by, or approved by the department, which is used by a discharger to apply for coverage under a general permit.
- (3) "Best management practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance pro-

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cedures, and other management practices to prevent or reduce the pollution of the waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Department" means the Washington state department of ecology.

(5) "Director" means the director of the department of ecology or the director's authorized representative.

(6) "Discharge of pollutant" and "discharge of pollutants" mean the addition of any pollutant or combination of pollutants to waters of the state, respectively.

(7) "Discharger" means the owner or operator of any operation, facility, or activity subject to regulation under chapter 90.48 RCW.

(8) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration or surface waters as may be present.

(9) "Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater, together with such industrial waste as may be present.

(10) "Effluent limitation" means any restriction established by the department or the administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents discharged from point sources into waters of the state.

(11) "FWPCA" means the federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 et seq.

(12) "Existing operation" means an operation that is not a new operation.

(13) "General permit" means a permit that covers multiple dischargers of a point source category within a designated geographical area, in lieu of individual permits being issued to each discharger.

(14) "Individual permit" means a permit for a single point source or a single facility.

(15) "Municipal sewerage system" means a publicly owned domestic wastewater facility or privately owned domestic wastewater facility that is under contract to a municipality.

(16) "New operation" means an operation that begins activities that result in a discharge, or a potential discharge to waters of the state on or after the effective date of the general permit.

(17) "Notice of intent" means an application for a general permit, a request for coverage under a general permit, or a registration form for a general permit.

(18) "NPDES" means the National Pollutant Discharge Elimination System.

(19) "Permit" means an authorization, license, or equivalent control document issued by the director to implement this chapter.

(20) "Person" includes any political subdivision, local, state, or federal government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatsoever.

(21) "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(22) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. This term does not include sewage from vessels within the meaning of section 312 of the FWPCA nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.

(23) "Regional administrator" means the regional administrator of Region X of the Environmental Protection Agency (EPA) or his/her authorized representative.

(24) "Sediment standards" means the state of Washington's Sediment management standards (chapter 173-204 WAC).

(25) "Small business" has the meaning given in RCW 43.31.025(4).

(26) "Surface waters of the state" means all waters defined as "waters of the United States" in 40 CFR 122.2 that are within the boundaries of the state of Washington. This includes lakes, rivers, ponds, streams, inland waters, wetlands, ocean, bays, estuaries, sounds, and inlets.

(27) "Waters of the state" means all waters defined as "surface waters of the state" and all waters defined as "waters of the state" in RCW 90.48.020.

(28) "Water quality standards" means the state of Washington's water quality standards for groundwaters of the state (chapter 173-200 WAC) and the state of Washington's water quality standards for surface waters of the state (chapter 173-201A WAC).

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-030, filed 5/5/93, effective 5/19/93.]

WAC 173-226-040 Relationship to chapters 173-216 and 173-220 WAC. This chapter defines a waste discharge general permit program within Washington state. Chapters 173-216 and 173-220 WAC define and establish permit programs for the development and issuance of individual permits.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-040, filed 5/5/93, effective 5/19/93.]

WAC 173-226-050 General permit coverage. (1) The director may issue general permits to satisfy any or all of the waste water discharge permit requirements of chapter 90.48 RCW and the FWPCA.

(2) The director may issue general permits to cover categories of dischargers for geographic areas as described under subsection (3) of this section. The area shall correspond to existing geographic or political boundaries, such as:

(a) Designated planning areas under section 208 or 303 of the FWPCA;

(b) Sewer districts or other special purpose districts;

(c) City, county, or state political boundaries;

(d) State or county highway systems;

(e) Standard metropolitan statistical areas as defined by the federal Office of Management and Budget;

(f) Urbanized areas as designated by the Bureau of the Census; or

(g) Any other appropriate division or combination of boundaries.

(3) General permits may be written to cover the following within a described area:

(a) Storm water sources; or

(b) Categories of dischargers that meet all of the following requirements:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same or substantially similar types of wastes;

(iii) Require the same or substantially similar effluent limitations or operating conditions, and require similar monitoring; and

(iv) In the opinion of the director are more appropriately controlled under a general permit than under individual permits.

(4) The following discharges are not subject to permits under this chapter:

(a) Discharges to municipal sewerage systems of domestic wastewater from residential, commercial, or industrial structures.

(b) Any industrial or commercial discharge to a municipal sewerage system for which authority to issue permits has been granted to the municipality under RCW 90.48.165.

(c) Any industrial or commercial discharge to a municipal sewerage system operating under, and in compliance with, the applicable requirements of a local pretreatment program approved under section 307 of FWPCA and WAC 173-216-150. In the event of noncompliance, this exemption no longer applies and the discharger is immediately subject to enforcement action under chapter 90.48 RCW for discharging without a waste discharge permit.

(d) Discharges to municipal sewerage systems of wastes from industrial or commercial sources whose wastewater is similar in character and strength to normal domestic wastewater: Provided, That such discharges do not have the potential to adversely affect performance of the system. Examples of this type of discharge sources may include hotels, restaurants, laundries, and food preparation establishments.

(e) Discharges of domestic wastewater from a septic tank with subsurface sewage treatment and disposal and an ultimate design capacity less than or equal to fourteen thousand five hundred gallons per day. These systems are governed by on-site sewage disposal systems, chapter 246-272 WAC which is administered by the Washington state department of health.

(f) Discharges of domestic wastewater from a mechanical treatment system or lagoon followed by subsurface disposal with an ultimate design capacity less than or equal to three thousand five hundred gallons per day. These systems are governed by on-site sewage disposal systems, chapter 246-272 WAC which is administered by the Washington state department of health.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-050, filed 5/5/93, effective 5/19/93.]

WAC 173-226-060 General permit preparation—Preliminary determination. (1) For all general permits, the department shall make a preliminary determination to develop a general permit. Interested persons may petition the director requesting that a category of dischargers be considered for the development of a general permit. The department shall respond to such a petition within ninety days of receipt.

(2) The department shall provide public notice of all preliminary determinations to develop a general permit pursuant to WAC 173-226-130(1).

(3) In the event that the department determines not to develop a general permit after publishing a preliminary determination pursuant to WAC 173-226-130(2), the department shall provide public notice to that effect in the same manner as the preliminary determination public notice was provided.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-060, filed 5/5/93, effective 5/19/93.]

WAC 173-226-070 Permit effluent limitations. Any general permit issued by the department shall apply and insure compliance with all of the following, whenever applicable:

(1) Technology-based treatment requirements and standards reflecting all known, available, and reasonable methods of prevention, treatment, and control required under RCW 90.48.010, 90.48.520, 90.52.040, and 90.54.020 may be imposed through any or all of the following methods:

(a) Effluent limitations and standards promulgated pursuant to sections 301, 302, 306, and 307 of the FWPCA;

(b) Discharge standards contained in chapters 173-221 and 173-221A WAC;

(c) On a case-by-case basis under section 402 of the FWPCA; and/or

(d) Through the use of best management practices.

(2) Water quality-based effluent limitations.

(a) Water quality-based effluent limitations shall be incorporated into a general permit if such limitations are necessary to comply with chapter 173-200 and/or 173-201A WAC for the majority of the dischargers intended to be covered under the general permit and:

(i) The department determines that the use of a general permit rather than individual permits is appropriate; and

(ii) The conditions of coverage contained in WAC 173-226-050 are met.

(b) Water quality-based effluent limitations must control all pollutants or pollutant parameters which the department determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion of state ground or surface water quality standards.

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(3) Any more stringent limitations or requirements, including those necessary to:

(a) Meet water quality standards, sediment quality standards, treatment standards, or schedules of compliance established pursuant to any state law or regulation under authority preserved to the state by section 510 of the FWPCA;

(b) Meet any federal law or regulation other than the FWPCA or regulations thereunder;

(c) Implement any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303(d) and incorporated in the continuing planning process approved under section 303(e) of the FWPCA and any regulations and guidelines issued pursuant thereto;

(d) Prevent or control pollutant discharges from plant site runoff, spillage or leaks, sludge or waste disposal, or materials handling or storage;

(e) Meet the permit by rule provisions of the state dangerous waste regulation, WAC 173-303-802 (4) or (5);

(f) Comply with a plan approved pursuant to section 208(b) of the FWPCA; and/or

(g) Meet such conditions as the department determines are necessary to carry out the provisions of the FWPCA, prior to promulgation by the administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307 of the FWPCA.

(4) In addition to the other applicable requirement of this chapter, general permits authorizing the discharge into a municipal sewerage system shall satisfy the applicable pretreatment requirements of the FWPCA.

(5) Requirements pursuant to other laws, including the state's Hazardous Waste Management Act (chapter 70.105 RCW), the Solid Waste Management—Reduction and Recycling Act (chapter 70.95 RCW), the Resource Conservation and Recovery Act of 1976 (Public Law 95.190), or any other applicable local ordinances, state or federal statute, to the extent that they pertain to the prevention or control of waste discharges into the waters of the state;

(6) In the application of effluent standards and limitations, water and sediment quality standards and other legally applicable requirements pursuant to subsections (1) through (4) of this section, each general permit shall specify:

(a) For industrial wastewater facilities, average monthly and maximum daily quantitative mass and/or concentration limitations, or other such appropriate limitations for the level of pollutants and the authorized discharge;

(b) For domestic wastewater facilities, average weekly and monthly quantitative concentration and mass limitations, or other such appropriate limitations for the level of pollutants and the authorized discharge;

(c) If a dilution zone is authorized, pursuant to chapter 173-201A WAC, within which water quality standards are modified, the dimensions of such dilution zone; and

(d) If a sediment impact zone is authorized within which sediment quality standards are modified pursuant to chapter 173-204 WAC, the dimensions of such sediment impact zone.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-070, filed 5/5/93, effective 5/19/93.]

WAC 173-226-080 Other terms and conditions. (1) In addition to the requirements of WAC 173-226-070, 173-226-090, and 173-226-180, each general permit shall require:

(a) All discharges authorized by the general permit shall be consistent with the terms and conditions of the permit.

(b) Any facility expansions, production increases, or process modifications that would result in new or increased discharges of pollutants causing effluent limitations in the general permit to be exceeded or beyond which was reported in the application for coverage, must be reported to the department by submission of a new application or supplement thereto.

(c) Unless notified to the contrary by the department all notices submitted pursuant to (b) of this subsection shall comply with the application requirements of WAC 173-226-200(3).

(d) Any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the general permit shall constitute a violation of the terms and conditions of the general permit.

(e) The director may terminate coverage under a general permit for cause. Cases where coverage under a general permit may be terminated include, but are not limited to, those contained in WAC 173-226-240(1).

(f) The director may require any discharger to apply for and obtain an individual permit, or to apply for and obtain coverage under another more specific general permit.

(g) General permits may be issued, modified, revoked and reissued, or terminated in accordance with the other provisions of this chapter. Grounds for modification or revocation and reissuance include but are not limited to those contained in WAC 173-226-230.

(h) The permittee shall allow the department or its authorized representative, upon the presentation of credentials and such other documents as may be required by law, at reasonable times:

(i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(ii) To have access to, and to copy at reasonable cost, any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; and/or

(iv) To sample any discharge of pollutants.

(i) The permittee shall at all times properly operate and maintain any facilities or systems of control to achieve compliance with the terms and conditions of the general permit. Where design criteria have been established, the permittee shall not allow flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

(j) The discharge of pollutants resulting from activities not covered under the general permit for which the discharger has requested coverage, shall be a violation of the terms and conditions of the general permit.

(2) General permits shall specify the contents of the application for coverage, the deadlines for submitting applications for coverage, the date(s) and/or the process by which coverage is granted, and the criteria for coverage.

(3) Any discharger authorized by a general permit may request to be excluded from coverage under the general per-

mit by applying for and being issued an individual permit. The discharger shall submit to the director an application as described in WAC 173-220-040, with reasons supporting the request. The director shall either issue an individual permit or deny the request with a statement explaining the reason for denial.

(4) When an individual permit is issued to a discharger otherwise subject to a general permit, the applicability of the general permit to that permittee is automatically terminated on the effective date of the individual permit.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-080, filed 5/5/93, effective 5/19/93.]

WAC 173-226-090 Monitoring, recording, and reporting. (1) Monitoring.

(a) Any discharge authorized by a general permit may be subject to such monitoring requirements as may be reasonably required by the department, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). These monitoring requirements would normally include but are not limited to:

(i) Flow (in gallons per day or other appropriate units);

(ii) All pollutants on which limitations have been placed pursuant to WAC 173-226-070;

(iii) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) that are subject to reduction or elimination under the terms and conditions of the permit;

(iv) Pollutants that the department finds could have a significant impact on the quality of waters and sediments of the state; and

(v) Pollutants specified by the administrator, in regulations issued pursuant to the FWPCA, as subject to monitoring.

(b) Each effluent flow or pollutant required to be monitored pursuant to (a) of this subsection shall be monitored at intervals sufficiently frequent to yield data that reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant.

(c) Monitoring for compliance with limitations imposed pursuant to WAC 173-226-070 shall be no less than once per year.

(d) Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels, which may be monitored at less frequent intervals.

(e) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required by the department, to verify compliance with net discharge limitations or removal requirements, to verify that proper waste treatment or control practices are being maintained, or to determine the effects of the discharge on the waters and sediments of the state.

(2) Recording of monitoring activities and results. Any general permit which requires monitoring of an authorized discharge shall require that:

(a) The permittee maintain records of all information resulting from any monitoring activities required as a condition of the application for, or as a condition of coverage under a general permit;

(b) Any records of monitoring activities and results shall include for all samples:

- (i) The date, exact place, and time of sampling;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses; and

(c) The permittee retain for a minimum of five years any records of monitoring activities and all results of those activities including all original strip chart recording for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee, or when requested by the department or regional administrator.

(3) Reporting of monitoring results.

(a) The department may require the permittee to periodically report on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a general permit. In addition to the required reporting form, the department may require submission of such other reports as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, a responsible corporate officer or duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge originates.

(ii) In the case of a partnership, a general partner.

(iii) In the case of a sole proprietorship, the proprietor.

(iv) In the case of a municipal, state, or other public facility, either a principal executive officer, ranking elected official, or other duly authorized employee.

(4) Except as provided in subsection (5) of this section, all monitoring data required as a condition of a general permit, or required as part of an application for coverage under a general permit shall be prepared by a laboratory registered or accredited under the provisions of chapter 173-50 WAC within one year of first being covered under a general permit or by July 1, 1995, whichever is later.

(5) The following parameters need not be accredited or registered:

- (a) Flow;
- (b) Temperature;
- (c) Settleable solids;

(d) Conductivity, except that conductivity shall be accredited if the laboratory must otherwise be registered or accredited;

(e) pH, except that pH shall be accredited if the laboratory must otherwise be registered or accredited;

(f) Turbidity, except that turbidity shall be accredited if the laboratory must otherwise be registered or accredited; and

(g) Parameters which are used solely for internal process control.

[Statutory Authority: RCW 90.48.035, 02-05-055 (Order 01-08), § 173-226-090, filed 2/15/02, effective 3/18/02. Statutory Authority: RCW 43.21A.230, 93-20-011 (Order 92-53), § 173-226-090, filed 9/22/93, effective 10/23/93. Statutory Authority: Chapter 90.48 RCW, 93-10-099 (Order 92-55), § 173-226-090, filed 5/5/93, effective 5/19/93.]

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WAC 173-226-100 Prohibited discharges. (1) No general permit issued by the department shall authorize any person to:

(a) Discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into waters of the state;

(b) Discharge any pollutants that the Secretary of the Army acting through the Chief, Corps of Engineers, finds would substantially impair anchorage and navigation;

(c) Discharge any pollutant which the regional administrator, not having waived his/her right to object pursuant to section 402(e) of the FWPCA, has objected in writing pursuant to section 402(d) of the FWPCA;

(d) Discharge any pollutant in conflict with plans or amendment thereto approved pursuant to section 208(b) of the FWPCA;

(e) Discharge any pollutant subject to a toxic pollutant discharge prohibition under section 307 of the FWPCA; or

(f) Discharge any dangerous waste as defined in the Dangerous waste regulations, chapter 173-303 WAC, into a sub-surface disposal system such as a well or drainfield.

(2) The following discharges to municipal sewerage systems are also prohibited:

(a) Waste materials that pass through the treatment works untreated or interfere with its operation or performance;

(b) Liquids, solids, or gases that, by reason of their nature or quantity, are or may be sufficient either alone or by interaction to:

(i) Cause fire or explosion;

(ii) Create a public nuisance or hazard to life;

(iii) Prevent entry into the sewers for their maintenance and repair; or

(iv) Be injurious in any other way to the operation of the system or the operating personnel;

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the system;

(d) Any wastewater having a pH less than 5.0 or greater than 11.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system, unless the system is specifically designed to accommodate such discharge and the discharge is authorized by a permit under this chapter;

(e) Wastewater that would cause the influent temperature to exceed 40°C (104°F), unless the system is specifically designed to accommodate such discharge and the discharge is authorized by a permit under this chapter. In any case, any wastewater having a temperature which will interfere with the biological activity in the system is prohibited;

(f) Waste materials, including, but not limited to, oxygen demanding waste materials (BOD, etc.) released in either a slug load or continuous discharge of such volume or strength as to cause interference to the system;

(g) Any other discharge prohibited by federal or state law or regulation; and

(h) Any of the following discharges, unless approved by the department under extraordinary circumstances (such as lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions):

- (i) Noncontact cooling water in significant volumes;
- (ii) Storm water and other direct inflow sources;
- (iii) Waste waters significantly affecting system hydraulic loading that do not require treatment or would not be afforded a significant degree of treatment by the system.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-100, filed 5/5/93, effective 5/19/93.]

WAC 173-226-110 Fact sheets. (1) The department shall prepare a fact sheet for every draft general permit determination. Such fact sheets shall summarize the following:

(a) The type of facility or activity which is the subject of the general permit;

(b) The geographical area for which the general permit is valid;

(c) The criteria for which coverage under a general permit will be approved;

(d) A listing or some other means of identifying the facilities proposed to be covered under the general permit;

(e) The information required by WAC 173-226-200(3), to be submitted as part of the application for coverage under the general permit;

(f) The effluent characteristics for the category of dischargers being authorized under the general permit, including the following:

(i) The average rate or frequency of the proposed discharge;

(ii) For thermal discharges, the average summer and winter temperatures; and

(iii) The average and estimated range in pounds per day, or other appropriate units, of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under RCW 90.48.010, 90.52.040, 90.54.020, and sections 301, 302, 306, or 307 of the FWPCA and regulations published thereunder;

(g) The effluent standards and limitations applied;

(h) The applicable water quality standards, including identification of the uses for which receiving waters have been classified;

(i) The conditions in the proposed general permit;

(j) The legal and technical grounds for the conditions contained in the general permit, including:

(i) An explanation of how conditions meet both the technology-based and water quality-based requirements of the FWPCA and chapters 90.48, 90.52, and 90.54 RCW;

(ii) An explanation of how the conditions meet the water quality standards of chapters 173-200 and 173-201A WAC; and

(iii) An explanation of how the conditions meet the sediment standards contained in chapter 173-204 WAC;

(k) If a dilution zone is authorized, pursuant to chapter 173-201A WAC, within which water quality standards are modified:

(i) A description of the allowed dilution zone;

(ii) The legal basis for providing a dilution zone; and

(iii) The technical basis for allowing a dilution zone and the basis for determining the size of the dilution zone;

(l) Any compliance schedules proposed as part of the general permit or as a part of the application process pursuant to WAC 173-226-180 and 173-226-200;

(m) How the draft permit addresses use or disposal of residual solids generated by wastewater treatment;

(n) The procedures for the formulation of final determinations (in more detailed form than that given in the public notice) including:

(i) The thirty-day comment period required by WAC 173-226-130(3), including the date and time after which public comments will not be considered by the department in formulating the final determination on the draft general permit;

(ii) The time and place of the public hearing(s); and

(iii) Any other procedures by which the public may participate in the formulation of the final determination; and

(o) A summary of the economic impact analysis required by WAC 173-226-120, including any mitigation proposed pursuant to WAC 173-226-120(2) for small business.

(2) The department shall provide copies of general permit fact sheets to any interested person upon request.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-110, filed 5/5/93, effective 5/19/93.]

WAC 173-226-120 Economic impact analysis. (1) The department shall prepare an economic impact analysis on all draft general permits which are intended to directly cover small business. The economic impact analysis shall be prepared on the draft general permit for which public notice is being provided pursuant to WAC 173-226-130(3).

(2) The purpose of the economic impact analysis is to reduce the economic impact of the general permit on small business by doing one or more of the following when it is legal and feasible in meeting the stated objectives of the FWPCA and chapter 90.48 RCW:

(a) Establishing differing compliance or reporting requirements or timetables for small businesses;

(b) Clarifying, consolidating, or simplifying the compliance and reporting requirements under the general permit for small businesses;

(c) Establishing performance rather than design standards;

(d) Exempting small businesses from parts of the general permit.

(3) The contents of an economic impact analysis of a proposed general permit shall include, at a minimum, the following:

(a) A brief description of the compliance requirements of the general permit, including:

(i) The minimum technology based treatment requirements identified as necessary under WAC 173-226-070;

(ii) The monitoring requirements contained in the general permit;

(iii) The reporting and recordkeeping requirements; and

(iv) Any plan submittal requirements;

(b) The estimated costs of compliance, based upon existing data for facilities intended to be covered under the general permit. Costs shall include, consistent with subsection (2) of this section the following:

(i) The costs associated with (a) of this subsection; and

(ii) The costs of equipment, supplies, labor, and any increased administrative costs;

(c) A comparison, to the greatest extent possible, of the cost of compliance for small businesses with the cost of compliance for the largest ten percent of the facilities intended to

be covered under the general permit. The economic impact analysis shall use one or more of the following as a basis for comparing costs:

- (i) Cost per employee;
- (ii) Cost per hour of labor;
- (iii) Cost per one hundred dollars of sales.

(4) The following compliance costs associated with a general permit shall not be included in the economic impact analysis:

(a) The costs necessary to comply with chapters 173-200, 173-201, 173-204, and 173-224 WAC; and

(b) The costs associated with requirements of the general permit which result from conformity or compliance, or both, with federal law or regulations.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-120, filed 5/5/93, effective 5/19/93.]

WAC 173-226-130 Public notice. The department shall provide public notice of all preliminary determinations to develop a general permit, all determinations not to develop a general permit after publishing such a preliminary determination, all draft general permit determinations, and the issuance of a final general permit. All public notices shall be circulated in a manner designed to inform interested and potentially affected persons of the proposed general permit.

(1) The department shall provide public notice of all preliminary determinations to develop a general permit as follows:

(a) The public notice shall be circulated within the geographical area of the proposed general permit. Such notice may include any or all of the following:

(i) Publishing, as a paid advertisement or legal notice, the department's preliminary determination in one or more major local newspapers throughout the area of proposed coverage;

(ii) Issuance of news releases, focus sheets, or newsletters;

(iii) Publication in the *State Register*;

(b) The department shall request comments on whether a general permit is appropriate for the proposed category of dischargers or whether individual permits are necessary;

(c) The public notice shall provide an opportunity for any interested or potentially affected party to submit information on dischargers proposed to be covered under a general permit including:

(i) Any documented information on the characteristics of the discharge including effluent quantity, quality, and any receiving water impacts. Information may be from an individual facility or be representative of the category as a whole; and

(ii) Any other relevant information;

(d) The department shall add the name of any person upon request to a general permit specific mailing list to receive information and notices related to the development of the general permit.

(2) In the event that the department determines not to develop a general permit after publishing a preliminary determination pursuant to subsection (1) of this section, the department shall provide public notice to that effect.

(3) The department shall provide public notice of every draft general permit as follows:

(a) The notice shall be circulated throughout the geographical area covered by the general permit. Such circulation may include any or all of the following:

(i) Posting for a period of thirty days in post offices, public libraries, and public places within the geographical area covered by the general permit;

(ii) Publishing the notice as a paid advertisement, display advertisement, or legal notice, in one or more major local newspapers of general circulation serving the area covered by the general permit;

(iii) Issuance of news releases, focus sheets, or newsletters.

(b) Notice shall be mailed to any person upon request, including all persons on the general permit specific mailing list established pursuant to subsection (1)(d) of this section and all persons on the mailing lists established pursuant to WAC 173-220-050 (1)(d).

(c) At least thirty days before the public hearing on the general permit the department shall have the following published in the *State Register*:

(i) The public notice contents contained in (f) of this subsection;

(ii) A reference to the relevant sections of chapter 90.48 RCW as the statutory authority for issuing the general permit;

(iii) The date on which the agency intends to issue the general permit;

(iv) A short explanation of the permit, its purpose, and anticipated effects; and

(v) A summary of the economic impact analysis required in WAC 173-226-120.

(d) The department shall provide a period of not less than thirty days following the last publication of the public notice, during which time interested persons may submit their written views on a draft general permit determination. All written comments submitted during the comment period shall be retained by the department and considered in the formulation of its final determination with respect to the draft general permit. The period for comment may be extended at the discretion of the department.

(e) The department shall make available during the public comment period:

(i) The draft general permit;

(ii) The fact sheet on the draft general permit required pursuant to WAC 173-226-110;

(iii) The economic impact analysis required pursuant to WAC 173-226-120;

(iv) A copy of the proposed application for coverage; and

(v) The notice required pursuant to WAC 173-226-130 (3)(c).

(f) The contents of the draft general permit public notice shall, at a minimum, summarize the following:

(i) The name, address, and phone number of the agency issuing the public notice;

(ii) The type of facilities and activities which are the subject of the general permit;

(iii) The geographical area for which the general permit is valid;

(iv) The criteria for which coverage under a general permit will be approved;

(v) A listing or some other means of generally identifying the facilities proposed to be covered under the general permit;

(vi) The tentative determination to issue a general permit;

(vii) The procedures for the formulation of final determinations, including the thirty-day comment period required by (d) of this subsection and any other means by which interested persons may comment upon those determinations;

(viii) The date, time, and place when public hearings will be held on the draft general permit;

(ix) The address and phone number of state premises at which interested persons may obtain further information; and

(x) The date and time after which comments will not be considered by the department in formulating the final determination on the draft general permit.

(4) The department shall provide public notice of the issuance of a final general permit as follows:

(a) The notice of general permit issuance shall be circulated in a manner similar to that used to circulate the notice on the draft general permit in subsection (3)(a) of this section and shall be published in the *State Register*; and

(b) The notice of general permit issuance shall be provided to all persons on the general permit specific mailing list established pursuant to subsection (1)(d) of this section and all persons on the mailing lists established pursuant to WAC 173-220-050 (1)(d).

(c) The public notice of the issuance of a general permit shall contain:

(i) The name, address, and phone number of the agency issuing the public notice;

(ii) The type of facilities and activities which are the subject of the general permit;

(iii) The geographical area for which the general permit is valid;

(iv) The criteria for which coverage under a general permit will be approved;

(v) A listing or some other means of generally identifying the facilities proposed to be covered under the general permit;

(vi) A summary of the application process by which eligible dischargers may obtain coverage under the general permit;

(vii) An explanation of any changes to the final general permit, other than editing changes, and the principal reasons for adopting the changes;

(viii) A notice that the terms and conditions of the general permit may be appealed only by filing an appeal with the pollution control hearings board and by serving it upon the department within thirty days, and the process for doing so as contained in RCW 43.21B.310; and

(ix) The date after which the general permit shall be effective. The effective date of a general permit shall be no sooner than thirty days after the publication in the *State Register* of the public notice required pursuant to (a) of this subsection.

(5) For new operations, or for operations previously under permit for which an increase in volume or change in the character of the effluent is requested over that which was previously authorized, only:

(a) The applicant for coverage under a general permit shall cause notice to be circulated within the geographical area of the proposed discharge. Such circulation shall include:

(i) Publishing twice a notice in a newspaper of general circulation within the county in which the discharge is proposed to be made; and

(ii) Any other method the department may direct.

(b) The notice published pursuant to (a) of this subsection shall contain:

(i) The name, address, and location of the facility requesting coverage under the general permit;

(ii) The applicant's activities or operations that result in a discharge (e.g., storm water, fish farming, gravel washing);

(iii) The name of the general permit under which coverage is being requested; and

(iv) The statement: "Any person desiring to present their views to the department of ecology regarding this application may do so in writing within thirty days of the last date of publication of this notice. Comments shall submitted to the department of ecology. Any person interested in the department's action on this application may notify the department of their interest within thirty days of the last date of publication of this notice."

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-130, filed 5/5/93, effective 5/19/93.]

WAC 173-226-140 Notice to other government agencies. The department shall notify other appropriate government agencies of each draft general permit determination and shall provide such agencies an opportunity to submit their written views and recommendations. Such notification for NPDES and combined NPDES/state waste discharge general permits only, shall include the following:

(1) Transmission of the fact sheet, application form, and draft general permit to the regional administrator for comment or objection. The regional administrator shall be provided ninety days to comment on the draft permit prior to issuance by the department unless an alternative time period is mutually agreed on by the director and the regional administrator.

(2) Immediately following issuance, the department shall transmit a copy of every fact sheet, application form, and general permit along with any and all terms, conditions, requirements, or documents which are a part of the general permit or which affect the authorization by the general permit, of the discharge of pollutants, to the regional administrator.

(3) At the time of issuance of the public notices pursuant to WAC 173-226-130 (1)(a), (3)(a), and (4)(a) the department shall transmit the public notices to any other states whose waters may be affected by the issuance of the general permit. Each affected state shall be afforded an opportunity to submit written comments pursuant to WAC 173-226-130 (1)(b) and (3)(d), to the department and to the regional administrator, which the department may incorporate into the permit if issued. Should the department fail to incorporate any written recommendations thus received, it shall provide to the affected state or states (and to the regional administrator) a written explanation of its reasons for failing to accept any of the written recommendations or comments.

(4) Unless waived by the respective agency, the public notices issued pursuant to WAC 173-226-130 (1)(a), (2), (3)(a), and (4)(a) shall be sent to the appropriate district engineer of the Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the state departments of fisheries, health, natural resources, wildlife, and social and health services, the office of archaeology and historic preservation, the agency responsible for the preparation of an approved plan pursuant to section 208(b) of the FWPCA, applicable Indian tribes, and any other applicable government agencies.

(5) A copy of any written agreement between the department and an agency identified in subsection (4) of this section which waives the receipt of public notices shall be forwarded to the regional administrator and shall be made available upon request to the public for inspection and copying.

(6) Copies of public notices issued pursuant to WAC 173-226-130 (1)(a), (2), (3)(a), and (4)(a) shall be mailed to any other federal, state, or local agency, Indian tribe, or any affected country, upon request. Such agencies shall have an opportunity to respond or comment on the draft general permit pursuant to WAC 173-226-130 (1)(b) and (3)(d).

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-140, filed 5/5/93, effective 5/19/93.]

WAC 173-226-150 Public hearings. (1) The department shall hold one or more public hearing(s) on all draft general permits. The public hearing shall be held during the public comment period provided pursuant to WAC 173-226-130 (3)(d).

(2) The date, time, and place will be at the discretion of the department provided:

(a) At least thirty days is provided between the time the public notice is published pursuant to WAC 173-226-130 (3)(a) and (c), and the time the hearing is held; and

(b) The hearing location is within the geographical area covered by the general permit.

(3) For new operations or for operations previously under permit for which an increase in volume or change in the character of the effluent has occurred only, any interested person may request a public hearing within thirty days of the last date of publication of the public notice required pursuant to WAC 173-226-130(5).

(a) All requests for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

(b) The department shall only consider issues regarding the general permits applicability or nonapplicability to the discharger when considering the need to hold a public hearing.

(4) The department shall cause a record to be made of all hearings required pursuant to this section. The record may be stenographic, mechanical, or electronic.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-150, filed 5/5/93, effective 5/19/93.]

WAC 173-226-160 Public access to information. (1) In accordance with chapter 42.17 RCW and its published policy describing disclosure of public records, the department shall make identifiable public records relating to all general permits available to the public for inspection and copying.

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(2) The department shall designate a general permit coordinator for each general permit. The coordinator shall:

(a) Have knowledge of the general permit being prepared;

(b) Maintain the records associated with the development of the general permit including the general permit file required pursuant to subsection (3) of this section;

(c) Be identified as the department contact in public notices regarding the general permit.

(3) The department shall prepare a general permit development file for each issued general permit. The general permit development file shall be available for public inspection subject to the provisions of this section. The general permit development file shall contain:

(a) Copies of all public notices required pursuant to WAC 173-226-130;

(b) A copy of the fact sheet required pursuant to WAC 173-226-110 and any other documents not readily available to the public which were used in developing the terms and conditions of the general permit;

(c) Copies of the draft and final general permits, the economic impact analysis, and the application for coverage;

(d) All written comments received during the public comment period required pursuant to WAC 173-226-130(3), on the draft general permit, fact sheet, economic impact analysis, and application for coverage;

(e) The record of public hearings produced pursuant to WAC 173-226-150(4); and

(f) The response to comments prepared pursuant to WAC 173-226-170(1).

(4) Pursuant to chapter 42.17 RCW, the department shall provide, upon request, any information submitted as part of an application for coverage under a general permit.

(5) The department shall add the name of any person, upon request, to a mailing list to receive notices of department actions associated with a general permit.

(6) The department shall provide facilities for the inspection of information relating to general permits and shall insure that employees honor requests for such inspection promptly without undue requirements or restrictions. The department shall either:

(a) Insure that a machine or device for the copying of papers and documents is available for a reasonable fee; or

(b) Otherwise provide for, or coordinate with copying facilities or services such that requests for copies of nonconfidential, identifiable public records be honored promptly.

(7) Pursuant to chapters 42.17, 43.21A, 70.105, and 90.52 RCW, the department shall protect any information (other than information on the effluent) contained in applications as confidential upon a showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of such person.

(8) Any information accorded confidential status, whether or not contained in an application form, shall be disclosed, upon request, to the regional administrator.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-160, filed 5/5/93, effective 5/19/93.]

WAC 173-226-170 Issuance of general permits. (1) At the close of the public comment period required pursuant to WAC 173-226-130 (3)(d) the department shall prepare a

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response to all relevant comments received (both written and oral) and shall briefly describe any changes, other than editing changes, and the principal reasons for making the changes to the draft general permit.

(2) General permits shall be deemed issued upon signing by the director or by a person delegated the authority to issue general permits pursuant to chapter 173-06 WAC.

(3) The department shall provide public notice of the issuance of all final general permits pursuant to WAC 173-226-130 (4)(a).

(4) General permits become effective thirty days after the date of publication in the *State Register* of the public notice required pursuant to WAC 173-226-130 (4)(a) unless a later date is specified by the department.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-170, filed 5/5/93, effective 5/19/93.]

WAC 173-226-180 Compliance schedules. (1) The department may establish schedules and permit conditions as necessary to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements contained in a general permit in any or all of the following ways:

- (a) As a condition or schedule in a general permit;
- (b) In an administrative order issued pursuant to chapter 90.48 RCW; and
- (c) By any other method deemed appropriate by the department.

(2) Schedules of compliance shall reflect the shortest reasonable period of time necessary to achieve compliance consistent with the guidelines and requirements of the FWPCA.

(3) In any case where the period of time for compliance specified in subsection (1)(a) of this section exceeds one year, a schedule of compliance shall be specified that will set forth interim requirements and the dates for their achievement; however, in no event shall more than one year elapse between interim dates. If the time necessary for completion of the interim requirement (such as construction of a treatment facility) is more than one year and is not readily divided into stages of completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement.

(4) Either before or up to fourteen days following each interim date and the final date of compliance, the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with each interim or final requirement.

(5) If a permittee fails or refuses to comply with an interim or final requirement contained in a general permit, or as submitted as part of an application for coverage under a general permit, such noncompliance shall constitute a violation of the general permit for which the department may revoke coverage under the general permit or take direct enforcement action pursuant to chapter 90.48 RCW.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-180, filed 5/5/93, effective 5/19/93.]

WAC 173-226-190 Appeals. (1) The terms and conditions of a general permit as they apply to the appropriate class of dischargers are subject to appeal within thirty days of issu-

ance of a general permit in accordance with chapter 43.21B RCW.

(2) The terms and conditions of a general permit, as they apply to an individual discharger, are appealable, within thirty days of the effective date of coverage of that discharger, in accordance with chapter 43.21B RCW. This appeal is limited to the general permit's applicability or non-applicability to that individual discharger.

(3) The appeal of general permit coverage of an individual discharger does not affect any other dischargers covered under the general permit. If the terms and conditions of a general permit are found to be inapplicable to any individual discharger(s), the matter shall be remanded to the department for consideration of issuance of an individual permit or permits.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-190, filed 5/5/93, effective 5/19/93.]

WAC 173-226-200 Applications for coverage under a general permit. (1) Following the public notice by the department of the issuance of a general permit, or at an alternate date as designated by the department, all dischargers who desire to be covered under the general permit shall notify the department of that fact on a form prescribed by the department no later than the following, unless a shorter application period is allowed in the general permit under which coverage is requested:

(a) For existing operations, applications for coverage shall be submitted no later than ninety days after the issuance date of the general permit under which coverage is requested;

(b) For new operations, applications for coverage shall be submitted no later than one hundred eighty days prior to the commencement of the activity that may result in the discharge to waters of the state.

(2) Unless specified otherwise in the general permit under which coverage is requested or the department responds in writing, coverage of a discharger under a general permit will automatically commence on the later of the following:

- (a) The effective date of the general permit;
- (b) The thirty-first day following the end of the thirty-day comment period required by WAC 173-226-130 (4);

(c) The thirty-first day following receipt by the department of a completed application for coverage under a general permit; or

(d) A date specified by the department in the general permit.

(3) All applications for coverage under a general permit shall:

(a) Contain information necessary for adequate program implementation;

(b) Contain the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving streams;

(c) Bear a certification of correctness;

(d) Be signed:

(i) In the case of corporations, by a responsible corporate officer.

(ii) In the case of a partnership, by a general partner.

(iii) In the case of sole proprietorship, by the proprietor.

(iv) In the case of a municipal, state, or other public

facility, by either a principal executive officer or ranking elected official; and

(e) Include any other information deemed relevant by the department.

(f) For new operations, or for operations for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, applications for coverage shall also contain:

(i) A certification by the applicant that the public notice requirements of WAC 173-226-130(5) have been met; and

(ii) A certification by the applicant that the applicable SEPA requirements under chapter 197-11 WAC have been met.

(4) The department shall develop an application form for each general permit and shall make the application form available during the draft general permit public notice period. The department shall provide the application form to the regional administrator along with the draft and final general permit as required in WAC 173-226-140.

(5) Any previously issued individual permit shall remain in effect until terminated in writing by the department, except that continuation of an expired individual permit, pursuant to WAC 173-220-180(5), shall terminate upon coverage by the general permit.

(6) Where the department has determined that a discharger should not be covered under a general permit, it shall respond in writing within sixty days of receipt of an application for coverage stating the reason(s) why coverage cannot become effective and any actions needed to be taken by the discharger in order for coverage under the general permit to become effective.

(7) When an individual permit is issued to a discharger otherwise subject to a general permit, the applicability of the general permit to that permittee is automatically terminated on the effective date of the individual permit.

(8) Coverage under a general permit for domestic wastewater facilities shall be issued only to a public entity, except in the following circumstances:

(a) Facilities existing or approved for construction with private operation on or before the effective date of this chapter, until such time as the facility is expanded; or

(b) Facilities that serve a single nonresidential, industrial, or commercial establishment. Commercial/industrial complexes serving multiple owners or tenants and multiple residential dwelling facilities, such as mobile home parks, apartments, and condominiums, are not considered single commercial establishments for the purpose of this subsection.

(9) Coverage under a general permit for domestic wastewater facilities that are owned by nonpublic entities and under contract to a public entity, shall be issued to the public entity.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-200, filed 5/5/93, effective 5/19/93.]

WAC 173-226-210 Transfer of permit coverage. Coverage under a general permit is automatically transferred to a new discharger if:

(1) A written, signed agreement between the old and new discharger containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to the director; and

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(2) The director does not notify the old and new discharger of the director's intent to revoke coverage under the general permit. If this notice is not given, the transfer is effective on the date specified in the agreement mentioned in subsection (1) of this section.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-210, filed 5/5/93, effective 5/19/93.]

WAC 173-226-220 Duration and replacement of permits. (1) General permits shall be issued for fixed terms not exceeding five years from the effective date.

(2) All permittees covered under a general permit shall submit a new application for coverage under a general permit or an application for an individual permit at least one hundred eighty days prior to the expiration date of the general permit under which the permittee is covered.

(3) When a permittee has made timely and sufficient application for the renewal of coverage under a general permit, an expiring general permit remains in effect and enforceable until:

(a) The application has been denied;

(b) A replacement permit has been issued by the department; or

(c) The expired general permit has been canceled by the department.

(4) Coverage under an expired general permit for permittees who fail to submit a timely and sufficient application shall expire on the expiration date of the general permit.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-220, filed 5/5/93, effective 5/19/93.]

WAC 173-226-230 Modification and revocation of general permits. (1) A general permit may be modified, revoked and reissued, or terminated, during its term for cause including, but not limited to, the following:

(a) A change occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under the general permit;

(b) Effluent limitation guidelines or standards are promulgated pursuant to the FWPCA or chapter 90.48 RCW, for the category of dischargers covered under the general permit;

(c) A water quality management plan containing requirements applicable to the category of dischargers covered under the general permit is approved;

(d) Information is obtained which indicates that cumulative effects on the environment from dischargers covered under the general permit are unacceptable; or

(e) A toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the FWPCA for a toxic pollutant which is more stringent than any limitation upon such pollutant in the permit.

(2) In the event that the director has determined to modify or revoke, in whole or in part, a general permit pursuant to subsection (1) of this section the director shall notify, in writing, all dischargers covered under the general permit. The notification shall include:

(a) The reason(s) why the general permit is being revoked or modified;

(b) The process for appealing the determination pursuant to RCW 43.21B.310;

(c) An application form and a time limit for submitting the application; and

(d) Any other information determined to be relevant by the department.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-230, filed 5/5/93, effective 5/19/93.]

WAC 173-226-240 Revocation of coverage under a general permit. (1) The director may terminate coverage under a general permit for cause. Cases where coverage under a general permit may be terminated include, but are not limited to, the following:

(a) Violation of any term or condition of the general permit;

(b) Obtaining coverage under a general permit by misrepresentation or failure to disclose fully all relevant facts;

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(d) A determination that the permitted activity endangers human health, safety, or the environment, or contributes to water or sediment quality standards violations;

(e) Incorporation of an approved local pretreatment program into a municipality's permit;

(f) Failure of the permittee to satisfy the public notice requirements of WAC 173-226-130(5);

(g) Failure or refusal of the permittee to allow entry as required in RCW 90.48.090; or

(h) Nonpayment of permit fees assessed pursuant to RCW 90.48.465.

(2) The director may require any discharger to apply for and obtain an individual permit, or to apply for and obtain coverage under another more specific general permit. In cases where the director requires any discharger to apply for an individual permit, or for another general permit, the discharger must be notified in writing that another permit is required. This notice shall include a statement of why another permit is being required, an application form, and a time limit for submitting the application.

(3) Any interested person may petition the director to require a discharger authorized by a general permit to apply for and obtain an individual permit.

(4) Any discharger authorized by a general permit may request to be excluded from coverage under a general permit by applying for an individual permit. The discharger shall submit to the director an application as described in WAC 173-220-040 with reasons supporting the request. The director shall either issue an individual permit or deny the request with a statement explaining the reason for denial.

(5) Where the department has determined that a discharger should no longer be covered under a general permit it shall notify the discharger in writing stating the reason(s) why coverage is no longer appropriate, and any actions required of the discharger in order for coverage under the general permit to remain effective.

(6) The discharger shall have thirty days to respond to any notification provided pursuant to subsection (5) of this section before coverage under a general permit shall be automatically revoked.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-240, filed 5/5/93, effective 5/19/93.]

WAC 173-226-250 Enforcement. (1) The department, with the assistance of the attorney general, may sue in courts of competent jurisdiction to enjoin any threatened or continuing violations of any general permits or conditions thereof without the necessity of a prior revocation of coverage under the general permit.

(2) The department may enter any premises in which an effluent source is located or in which records are required to be kept under terms or conditions of a general permit, and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards, or effluent standards and limitations, or of general permit terms or conditions thereof.

(3) The department may assess or, with the assistance of the attorney general, sue to recover in court, such civil fines, penalties, and other civil relief as may be appropriate for the violation by any person of:

(a) Any effluent standards and limitations or water quality standards;

(b) Any general permit or term or condition thereof;

(c) Any filing requirements;

(d) Any duty to permit or carry out inspection, entry, or monitoring activities; or

(e) Any rules, regulations, or orders issued by the department.

(4) The department may request the prosecuting attorney to seek criminal sanctions for the violation by such persons of:

(a) Any effluent standards and limitations or water quality standards;

(b) Any permit or term or condition thereof; or

(c) Any filing requirements.

(5) The department, with the assistance of the prosecuting attorney, may seek criminal sanctions against any person who knowingly makes any false statement, representation, or certification in any form or any notice or report required by the terms and conditions of any issued permit or knowingly renders inaccurate any monitoring device or method required to be maintained by the department.

[Statutory Authority: Chapter 90.48 RCW. 93-10-099 (Order 92-55), § 173-226-250, filed 5/5/93, effective 5/19/93.]