

WAC 173-350-710 Permit application and issuance. (1) Permit application process.

(a) Any owner or operator required to obtain a solid waste permit must apply to the jurisdictional health department on forms prescribed by the department. All permit application filings must include two copies of the application. An application may not be considered complete by the jurisdictional health department until all the information required under WAC 173-350-715 and the applicable section(s) of this chapter has been submitted.

(b) The jurisdictional board of health may establish reasonable fees for permits, permit modifications, and renewal of permits. All permit fees collected by the health department must be deposited in the account from which the health department's operating expenses are paid.

(c) Once the jurisdictional health department determines that an application for a permit is complete, it must:

(i) Refer one copy to the appropriate regional office of the department for review and comment and include correspondence indicating that the jurisdictional health department has determined that the application is complete;

(ii) Investigate every application to determine whether the facility meets all applicable laws and regulations, is not in conflict with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan, and complies with all zoning requirements; and

(iii) When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting, from an area under a quarantine, the jurisdictional health department must also provide a copy of the application to the Washington state department of agriculture. The Washington state department of agriculture will review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. Within forty-five days, the Washington state department of agriculture will report its findings to the jurisdictional health department and department.

(d) Once the department has received a complete application for review, it will:

(i) Ensure that the proposed facility conforms with all applicable laws and regulations including this chapter;

(ii) Ensure that the proposed facility is not in conflict with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan; and

(iii) Recommend for or against the issuance of the permit by the jurisdictional health department within forty-five days of receipt of a complete application.

(2) Permit issuance.

(a) When the jurisdictional health department has evaluated all pertinent information, it may issue or deny a permit. The jurisdictional health department must approve or disapprove every complete solid waste permit application within ninety days of its determination that the application is complete. Every permit issued by a jurisdictional health department must contain specific requirements necessary for the proper operation of the permitted facility.

(b) Every permit issued may be valid for a period not to exceed five years at the discretion of the jurisdictional health department.

If a permit is to be issued for longer than one year, the jurisdictional health department may hold a public hearing before making a decision.

(c) Jurisdictional health departments must file all issued permits with the appropriate regional office of the department no more than seven days after the date of issuance. No solid waste permit issued pursuant to RCW 70.95.180 will be considered valid unless it has been reviewed by the department.

(d) The department will review each permit and report its findings to the jurisdictional health department in writing within thirty days of permit issuance.

(e) Jurisdictional health departments may issue one solid waste handling permit covering multiple activities at the same site, or multiple solid waste handling permits may be issued for a single facility with multiple activities.

(3) Permit renewals.

(a) Prior to renewing a permit, the jurisdictional health department will conduct a review as it deems necessary to ensure that solid waste handling on the site continues to:

(i) Meet the solid waste handling standards of the department;

(ii) Comply with all applicable laws and regulations; and

(iii) Not conflict with the approved solid waste management plan and/or the approved hazardous waste management plan.

(b) A jurisdictional health department must approve or deny a permit renewal within forty-five days of conducting its review.

(c) Every permit renewal will be valid for a period not to exceed five years at the discretion of the jurisdictional health department. If a permit is to be renewed for longer than one year, the jurisdictional health department may hold a public hearing before making a decision.

(d) Jurisdictional health departments must file all issued permit renewals with the appropriate regional office of the department not more than seven days after the date of issuance. No permit renewal issued pursuant to RCW 70.95.190 will be considered valid unless it has been reviewed by the department.

(e) The department will review the renewal and report its findings to the jurisdictional health department in writing within thirty days of issuance of the permit renewal.

(4) Permit modifications.

(a) Any change to the operation, design, site or processing capacity, performance, or monitoring of a permitted facility requires a modification to the permit when such a change is tied to a regulatory design or operating standard in this chapter. A modification request must include the following information:

(i) A description of the proposed modification;

(ii) The reasons for the proposed modification;

(iii) A description of the impacts from the proposed modification upon the solid waste facility as presently permitted;

(iv) A showing that, as modified, the solid waste facility will be capable of compliance with the applicable requirements of this regulation; and

(v) Any other information as required by the jurisdictional health department.

(b) If the jurisdictional health department and the department determine that the proposed modification is significant, the procedures of subsection (1) of this section will be followed except that:

(i) The department will report its findings to the jurisdictional health department within thirty days;

(ii) The jurisdictional health department will approve or disapprove the modification request within forty-five days after its receipt of a complete application; and

(c) If the jurisdictional health department and the department determine that the procedures of subsection (1) of this section are not necessary, any written form of communication documenting the deliberation and decision related to the permit modification request is sufficient.

(d) The jurisdictional health departments must file approved modifications with the appropriate regional office of the department no more than seven days after the date of issuance. No solid waste permit modification issued pursuant to RCW 70.95.180 will be considered valid unless it has been reviewed by the department.

(5) Inspections.

(a) At a minimum, jurisdictional health departments must conduct annual inspections of all permitted solid waste facilities.

(b) All facilities and sites must be physically inspected prior to issuing a permit, permit renewal, or permit modification.

(c) Any duly authorized representative of the jurisdictional health department may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings must be noted and kept on file. A copy of the inspection report or annual summary must be furnished to the site operator.

(6) Permit transfers.

(a) No solid waste permit may be transferred to a new owner or operator without first obtaining approval from the jurisdictional health department by submitting an application specified by the jurisdictional health department and the department pursuant to subsection (1) of this section.

(b) The application must include at least the following:

(i) The name and all contact information of the new owner or operator (applicant);

(ii) A demonstration that a new owner or operator is capable of operating the facility in compliance with all the applicable requirements of this regulation and the solid waste permit conditions;

(iii) If applicable, financial assurance pursuant to WAC 173-350-600. Existing financial assurance must remain in place by the currently permitted owner or operator until this requirement is met;

(iv) An original signature pursuant to WAC 173-350-715(3); and

(v) Any other information as required by the jurisdictional health department.

(c) The jurisdictional health department is authorized to require a new solid waste permit application pursuant to all procedures of subsection (1) of this section if it determines the requirement is warranted.

(7) Permit suspension and appeals.

(a) Any permit for a solid waste handling facility is subject to suspension at any time the jurisdictional health department determines that the solid waste handling facility is being operated in violation of this chapter, conditions of the solid waste permit, the rules of the Washington state department of agriculture, or local laws and regulations.

(b) Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste handling facility, it must:

(i) Upon request of the applicant or holder of the permit, grant a hearing on the denial or suspension within thirty days after the request;

(ii) Provide notice of the hearing to all interested parties including the county or city having jurisdiction over the site and the department; and

(iii) Within thirty days after the hearing, notify the applicant or the holder of the permit in writing of the determination and the reasons therefore. Any party aggrieved by the determination may appeal to the pollution control hearings board by filing with the board a notice of appeal within thirty days after receipt of notice of the determination of the health officer.

(c) If the jurisdictional health department denies a permit renewal or suspends a permit for an operating waste recycling facility that receives waste from more than one city or county, and the applicant or holder of the permit requests a hearing or files an appeal under this section, the permit denial or suspension will not be effective until the completion of the appeal process under this section, unless the jurisdictional health department declares that continued operation of the waste recycling facility poses a very probable threat to human health or the environment.

(8) Variances.

(a) Any person subject to the solid waste permitting requirements of this section may apply to the jurisdictional health department for a variance from any section of this chapter except that no variance will be granted for requirements specific to chapter 70.95 RCW, Solid waste management—Reduction and recycling. Requests for variances must be made during the application process in subsection (1) of this section or the permit modification process in subsection (4) of this section.

(b) Any variance request must contain sufficient information and justification for the jurisdictional health department and department to determine if a variance request should be approved including a demonstration that compliance with the section from which variance is sought would produce hardship without equal or greater benefits to the public.

(c) Any variance request granted by the jurisdictional health department requires written concurrence by the department.

(d) Variances may be granted for a limited time period if deemed appropriate by the jurisdictional health department and department.

(e) All variances must be reviewed annually as part of the permit review process in subsection (5) (a) of this section.

(9) Permit deferral.

(a) A jurisdictional health department may, at its discretion and with the concurrence of the department, waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other air, water, or environmental permits issued for the facility which provide an equivalent or superior level of environmental protection.

(b) The requirement to obtain a solid waste permit from the jurisdictional health department will not be waived for any transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.

(c) Any deferral of permitting or regulation of a solid waste facility granted by the department or a jurisdictional health department

prior to June 11, 1998, will remain valid and will not be affected by this subsection.

(d) Any person who owns or operates a solid waste handling facility subject to obtaining a solid waste permit may apply to the jurisdictional health department for permit deferral. Two copies of an application for permit deferral must be signed by the owner or operator and submitted to the jurisdictional health department. Each application for permit deferral must include:

(i) A description of the solid waste handling units for which the facility is requesting deferral;

(ii) A list of the other environmental permits issued for the facility;

(iii) A detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection;

(iv) Evidence that the facility is not in conflict with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan;

(v) Evidence of compliance with chapter 197-11 WAC, SEPA rules, including the SEPA lead agency's determination; and

(vi) Other information that the jurisdictional health department or the department may require.

(e) When the permit deferral application is for a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting, from an area under a quarantine, the jurisdictional health department must also provide a copy of the application to the Washington state department of agriculture. The Washington state department of agriculture will review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. Within forty-five days, the Washington state department of agriculture must report its findings to the jurisdictional health department and department.

(f) The jurisdictional health department must notify the applicant if it elects not to waive the requirement that a solid waste permit must be issued for a facility under this chapter. If the jurisdictional health department elects to proceed with permit deferral, it must:

(i) Refer one copy of the complete deferral application to the appropriate regional office of the department for review and written concurrence;

(ii) Notify the permit issuing authority or authorities for the other environmental permits described in (d)(ii) of this subsection and allow a thirty day opportunity for comment; and

(iii) Determine if the proposed permit deferral provides an equivalent or superior level of environmental protection.

(g) The department will provide a written concurrence or denial for the permit deferral within forty-five days of receipt of a complete permit deferral application or inform the jurisdictional health department as to the status with a schedule for its determination.

(h) No solid waste permit deferral will be effective unless the department has provided written concurrence. All requirements for solid waste permitting remain in effect until the department has provided written concurrence.

(i) When the jurisdictional health department has evaluated all information, it must provide written notification to the applicant and

the department whether or not it elects to waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other environmental permits issued for the facility. Every complete permit deferral application must be approved or denied within ninety days after its receipt by the jurisdictional health department or the owner or operator must be informed as to the status of the application with a schedule for final determination.

(j) The jurisdictional health department must send any approval for a permit deferral to the appropriate regional office of the department within seven days of issuance.

(k) The jurisdictional health department must revoke any permit deferral if it or the department determines that the other environmental permits are providing a lower level of environmental protection than a solid waste permit. Jurisdictional health departments must notify the facility's owner or operator of intent to revoke the permit deferral and direct the owner or operator to take measures necessary to protect human health and the environment and to comply with the permit requirements of this chapter.

(l) Facilities operating under a solid waste permit deferral to other environmental permits must:

(i) Allow the jurisdictional health department or the department, at any reasonable time, to inspect the solid waste handling facility which has been granted a permit deferral;

(ii) Notify the jurisdictional health department and the department whenever changes are made to the other environmental permits identified in (d)(ii) of this subsection. This notification must include a detailed description of how the changes will affect the facility's operation and how, as described in (d)(iii) of this subsection, the amended permits continue to provide an equivalent or superior level of environmental protection to the deferred solid waste permits. If the amended permits no longer provide an equivalent or superior level of environmental protection, the facility owner or operator must close the solid waste handling facility or apply for a solid waste permit from the jurisdictional health department according to procedures of subsection (1) of this section;

(iii) Notify the jurisdictional health department and the department within seven days of discovery of any violation of, or failure to comply with, the conditions of the other environmental permits identified in (d)(ii) of this subsection;

(iv) Notify the jurisdictional health department of any enforcement actions taken as a result of noncompliance with the permit(s) that have been deferred to;

(v) Prepare and submit an annual report to the jurisdictional health department and the department by April 1st as required under the appropriate annual reporting sections of this chapter;

(vi) Operate in accordance with any other written conditions that the jurisdictional health department deems appropriate; and

(vii) Take any measures deemed necessary by the jurisdictional health department when the permit deferral has been revoked.

[Statutory Authority: Chapter 70.95 RCW, and RCW 70.95.060, 70.95.215, 70.95.218, 70.95.260(6), 70.95.300, 70.95.305, 70.95.310, 70.95.440. WSR 18-17-008 (Order 13-08), § 173-350-710, filed 8/1/18, effective 9/1/18. Statutory Authority: Chapter 70.95 RCW. WSR 03-03-043 (Order 99-24), § 173-350-710, filed 1/10/03, effective 2/10/03.]