

[Statutory Authority: Chapter 76.09 RCW, 88-22-030 (Order 88-19), § 173-202-020, filed 10/27/88. Statutory Authority: RCW 76.09.040, 87-23-017 (Order 87-5), § 173-202-020, filed 11/10/87, effective 1/1/88; 83-15-045 (Order DE 82-37), § 173-202-020, filed 7/19/83; Order DE 76-32, § 173-202-020, filed 7/13/76.]

Chapter 173-208 WAC

GRANT OF AUTHORITY SEWERAGE SYSTEMS

WAC

173-208-010	Authority.
173-208-020	Purpose.
173-208-030	Declaration of policy.
173-208-040	Definitions.
173-208-050	Applications for authorization.
173-208-060	Delegation procedure.
173-208-070	Scope of authorization.
173-208-080	Permits under authorized programs.
173-208-090	Conformity with department rules.
173-208-100	Withdrawal of authorization.
173-208-110	Requirement of program review.
173-208-120	Appeal.

WAC 173-208-010 Authority. RCW 90.48.165 empowers the department of ecology, as successor to the water pollution control commission to grant to any city, town, or municipal corporation operating a sewerage system including treatment facilities the authority to issue permits for the discharge of wastes into such system, provided that the department finds to its satisfaction that the sewerage system and inspection and control program operated and conducted by the city, town, or municipal corporation will protect the public interest in the quality of the state's water as provided in the Water Pollution Control Act, chapter 90.48 RCW. Permits for the discharge of wastes into publicly operated sewerage systems are required for commercial or industrial operations by virtue of RCW 90.48.160.

[Order DE 75-10, § 173-208-010, filed 4/30/75.]

WAC 173-208-020 Purpose. The purpose of this chapter is to set forth the procedures and criteria for the granting of authority for the administration of the permit program of RCW 90.48.160 as it pertains to waste discharges into publicly operated sewerage systems to the governing bodies of cities, towns, and municipal corporations operating such sewerage systems and receiving into them industrial and commercial wastes as hereinafter defined.

[Order DE 75-10, § 173-208-020, filed 4/30/75.]

WAC 173-208-030 Declaration of policy. (1) The department encourages qualified cities, towns, and other municipal corporations to apply for a grant of authority to conduct and operate a permit system for the regulation of commercial and industrial waste discharges into their sewerage systems in accordance with RCW 90.48.165.

(2) The department is committed to the policy of maintaining the highest possible standards of water quality within the state in compliance with the basic aims expressed in RCW 90.48.010 and national policies and goals expressed by the Federal Water Pollution

Control Act Amendments of 1972, (FWPCAA). The implementation of a permit issuance program by any city, town, or municipal corporation shall be continuously evaluated by the department for compliance with these policies, aims, and goals.

(3) In compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES), as provided for in the FWPCAA, the department shall maintain its enforcement of compliance of effluent limitation standards upon publicly owned or operated treatment works under their NPDES permits. Under such permit, any municipality granted authority hereunder to administer a permit program as hereinafter defined shall continue to be primarily responsible for its effluent quality according to the terms of such NPDES permit.

[Order DE 75-10, § 173-208-030, filed 4/30/75.]

WAC 173-208-040 Definitions. As used in this chapter:

(1) "Applicant" shall mean that municipality applying to the department for authority to administer the permit program pursuant to RCW 90.48.165.

(2) "Application for authorization" shall mean that application submitted by a municipality seeking permit-issuing authority pursuant to RCW 90.48.165.

(3) "Application to discharge" shall mean that information required from a discharger in acquiring a permit to discharge commercial and industrial wastes into a municipal sewerage system.

(4) "Commercial and industrial wastes" shall mean the wastes, whether solid or liquid, from any commercial or industrial operation, other than domestic sewage.

(5) "Department" shall mean the department of ecology.

(6) "Discharge" shall mean any commercial or industrial operation which results in the disposal of solid or liquid waste material into a sewerage system operated by a municipality which discharges into the public waters of the state.

(7) "Enforcement action" shall mean any administrative or judicial action initiated to achieve compliance with the conditions of a discharge permit, regulations of the department, and water pollution control laws of this state or of the federal government.

(8) "Municipality" shall mean any city, town, or municipal corporation established according to the applicable laws of this state.

(9) "Permit" shall mean the official authorization to dispose of commercial and industrial wastes into waters, to include all regulatory constraints and conditions described therein, issued to a discharger.

(10) "Permit program" shall mean the process of granting or denying by municipalities, authorized as herein provided, of approval of applications to discharge into the sewerage system of such municipalities, the monitoring and inspection of dischargers, and the taking of appropriate enforcement action.

(11) "Sewerage system" shall mean any system operated by a municipality for the collection, transfer, treatment, and disposal of sewage.

[Order DE 75-10, § 173-208-040, filed 4/30/75.]

WAC 173-208-050 Applications for authorization. No particular form shall be required for an application for authorization. No such decision shall be made on any such application, however, unless the applicant supplies to the department:

(1) A request from the municipality seeking authority to conduct a permit program for the discharge of commercial and industrial wastes into its sewerage system in accordance with state and federal water pollution control laws, regulations, and policies as now exist or are hereafter amended.

(2) A listing of all self-monitoring and reporting procedures to be required, and inspection and other regulatory control criteria and procedures applicant intends to use in administering the permit program.

(3) An estimate of the financial resources the applicant will commit to the permit program on an annual basis and the sources of funding therefor.

(4) A commitment showing the number of personnel who will be assigned to the permit program, either on a full-time or part-time basis, broken down by person-years or person-hours or other appropriate measure of personnel usage, and assurances that such personnel commitment is or will be adequately funded.

(5) An assurance that the background, experience and continuing training of personnel to be assigned to the permit program will be sufficient to achieve and maintain the goals and policies of state and federal water pollution control acts.

(6) A copy of the actual or proposed municipal ordinance or resolution intended for use in establishing and conducting the proposed waste discharge permit system.

(7) An outline of the procedures to be used in processing individual permit applications.

(8) Copies of the application for permit and of the proposed permit format.

(9) A description of enforcement procedures to be followed.

(10) A list of all potential dischargers into the sewerage system which will require permits pursuant to any delegation hereunder.

(11) If the applicant is the recipient of a federal grant for any phase of treatment works construction to be utilized by the discharger, it shall demonstrate to the department that it has adopted a system of charges to assure that each discharger shall pay a proportionate share of the costs of operation and maintenance of any waste treatment services provided by the applicant, and further demonstrate that it has made provision for the payment to the applicant by dischargers of that portion of the cost of construction of such treatment works which is allocable to the treatment of commercial and industrial wastes to the extent attributable to the federal share of the cost of construction.

(12) Any additional information required by the department.

[Order DE 75-10, § 173-208-050, filed 4/30/75.]

[Title 173 WAC—p 254]

WAC 173-208-060 Delegation procedure. (1) Upon receipt of any application for authorization, the department shall review such application, and if necessary, require additional information to make a determination thereon.

(2) Upon notification by the department that all information required by it has been received, the applicant shall twice publish notice of the application for authorization in a newspaper of general circulation in the area to which the request relates, providing thirty days for written comments on the request to be received by the department. Such notice shall be in a form provided by the department. In addition to such publication, a copy of such notice shall be mailed by the applicant to the governing body of each sewer district and of general purpose government, all or a portion of which lies within the jurisdictional boundaries to which the request relates.

(3) After review of the completed application and of comments timely received in response to the notice provided for above, the department shall either deny the request, giving its reasons therefor, find that there is sufficient public interest to warrant holding a public hearing on the application, or issue an order approving the same in whole or in part.

(4) If a public hearing is held upon proper notice, the department shall afford interested parties the opportunity to present their views on the application, and, upon review of all information gathered, shall either deny the application or issue an order approving the same.

(5) Any approval order issued by the department hereunder shall contain conditions and restrictions relative to the administration of the permit program and shall be binding upon the municipality so long as such approval remains in effect. Said approval order may subsequently be altered or amended in whole or in part to reflect changes in applicable laws, regulations, or policies relating to water pollution control. The department shall give the municipality thirty days notice of any contemplated amendments, unless an emergency precludes the giving of such notice, and will invite comments from the municipality.

[Order DE 75-10, § 173-208-060, filed 4/30/75.]

WAC 173-208-070 Scope of authorization. (1) Authority granted hereunder shall be limited to the administration of the permit program within applicant's jurisdictional boundaries as now existing or as hereafter changed.

(2) Grants of authority to municipalities hereunder shall be limited to the conduct of a permit program for the discharge of commercial and industrial wastes into a sewerage system and shall confer no authority to issue permits for the discharge of such wastes into surface or groundwaters of the state. Administration of permit requirements for waste discharges other than commercial and industrial wastes entering a sewerage system, shall remain solely with the department.

(3) No authorization made hereunder shall be construed as limiting or abridging the powers or abrogating the duties required of the department. The department

may initiate appropriate enforcement action against a municipality to whom authority has been granted hereunder, or against any discharger for violations of any requirements of chapter 90.48 RCW, the FWPCAA, or regulations thereunder.

[Order DE 75-10, § 173-208-070, filed 4/30/75.]

WAC 173-208-080 Permits under authorized programs. Any municipality to which permit authority has been granted hereunder may use its own application and permit forms when the same have been approved by the department.

[Order DE 75-10, § 173-208-080, filed 4/30/75.]

WAC 173-208-090 Conformity with department rules. (1) It is contemplated that various applicants may present to the department differing regulatory criteria designed to cope with particular local needs and conditions. For the purposes of determining whether an applicant intends to administer the permit program in accordance with applicable state and federal laws, regulations, and policies, the department shall evaluate proposed regulatory criteria on the basis of whether such criteria, if implemented, would be at least as stringent as state or federal requirements.

(2) All implementing ordinances or resolutions shall contain a proviso requiring that the permit program as administered by any municipality be revised, as necessary and to the satisfaction of the department, to conform with any changes in applicable rules and regulations which may be adopted by the department or the federal government subsequent to the effective date of the grant of authority. All amendments of implementing ordinances or resolutions shall be submitted to the department for approval prior to passage.

(3) Any municipality granted authority hereunder to administer a permit program shall adhere to, as a minimum requirement for commercial and industrial dischargers, the state or federal pretreatment standards and regulations, as now exist or are hereafter amended. If necessary to impose more stringent standards in order to meet the effluent limitations contained in its National Pollutant Discharge Elimination System (NPDES) permit, the municipality shall impose and enforce such stricter pretreatment requirements as necessary to meet these limitations pursuant to the authority preserved to the state by section 510 of the FWPCAA.

(4) Nothing in this grant of authority shall relieve the municipality of its obligation of compliance with the terms and conditions of its NPDES permit or the requirements of state and federal laws and rules pertaining to water pollution control.

[Order DE 75-10, § 173-208-090, filed 4/30/75.]

WAC 173-208-100 Withdrawal of authorization. Whenever the department shall determine that a municipality to which a grant of authority has been made hereunder is not administering the permit system in accordance with an approval order issued hereunder, state

(1989 Ed.)

and/or federal water pollution control acts and regulations or the applicable implementing ordinance or resolution of the municipality, the department shall notify such local government and, if corrective action is not taken within a reasonable time, not to exceed sixty days, the department by order, shall withdraw the authority. Permits issued under this program shall automatically terminate if the authority to issue the same is revoked by the department and the provisions of RCW 90.48.160 shall apply.

[Order DE 75-10, § 173-208-100, filed 4/30/75.]

WAC 173-208-110 Requirement of program review. It is the objective of the department to place reliance for internal system controls upon any municipality granted authority hereunder and to avoid complex procedures for the measuring and evaluating the effectiveness of a municipal permit system, insofar as is consistent with statutory responsibilities of the department under the provisions of chapter 90.48 RCW. A program review shall be necessary, however, to fulfill those responsibilities and shall be accomplished through the following actions:

(1) The municipality shall immediately provide the department with a copy of each application for discharge, together with a copy of each permit issued thereupon, or notice of denial thereof.

(2) The municipality will devise and submit a quarterly written report to the department within thirty days after the end of each calendar year quarter to reflect the following:

(a) A listing of all permits issued by the municipality during the previous quarter.

(b) A report on the status of compliance by dischargers having permits that incorporate compliance schedules.

(c) A brief narrative covering violations and enforcement actions, if any, occurring during the reporting period, to include specifics as to cause and effect of the violation and preventative measures taken.

(d) Maintain copies of monitoring reports submitted by all permit holders for purposes of inspection by department personnel.

(e) Identification of problem areas or potential problem areas which may be resolved with the assistance of the department.

(3) The municipality and the department shall hold joint staff meetings involving personnel from municipal and department staff no less than semiannually for purposes of discussing functional problems and solutions related to industrial and commercial waste discharge permit systems.

[Order DE 75-10, § 173-208-110, filed 4/30/75.]

WAC 173-208-120 Appeal. Any person aggrieved by a final ruling by a municipality upon an application for a permit or violations of the same under a delegated program may obtain review thereof by filing an appeal, within thirty days, with the pollution control hearings board, pursuant to chapter 43.21B RCW and chapter

[Title 173 WAC—p 255]

371-08 WAC. The defense of any such appeal shall be the responsibility of the municipality.

[Order DE 75-10, § 173-208-120, filed 4/30/75.]

Chapter 173-216 WAC

STATE WASTE DISCHARGE PERMIT PROGRAM

WAC

173-216-010	Purpose.
173-216-020	Policy enunciated.
173-216-030	Definitions.
173-216-040	Authorization required.
173-216-050	Discharges not subject to permits.
173-216-060	Prohibited discharges.
173-216-070	Application for a permit.
173-216-080	Confidentiality of information.
173-216-090	Public notice.
173-216-100	Public hearings.
173-216-110	Permit terms and conditions.
173-216-120	Transfer of a permit.
173-216-130	Modification, suspension, and revocation of permits.
173-216-140	Relationship with NPDES permits.
173-216-150	Delegation of authority to issue permits for discharges into sewer systems.

WAC 173-216-010 Purpose. (1) The purpose of this chapter is to implement a state permit program, applicable to the discharge of waste materials from industrial, commercial, and municipal operations into ground and surface waters of the state and into municipal sewerage systems. However, this regulation excludes the point source discharge of pollutants into navigable waters of the state which is regulated by National Pollutant Discharge Elimination System (NPDES) Permit Program, chapter 173-220 WAC. This regulation also excludes the injection of fluids through wells which is regulated by underground injection control program, chapter 173-218 WAC.

(2) Permits issued under this chapter are designed to satisfy the requirement for discharge permits under the Water Pollution Control Act, chapter 90.48 RCW and to implement applicable pretreatment requirements under section 307 of the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.).

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-010, filed 3/4/86. Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-216-010, filed 2/29/84. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-010, filed 11/18/83. Formerly chapter 372-24 WAC.]

WAC 173-216-020 Policy enunciated. (1) It shall be the policy of the department in carrying out the requirements of this chapter, to maintain the highest possible standards to ensure the purity of all waters of the state and to require the use of all known, available and reasonable methods to prevent and control the discharge of wastes into the waters of the state. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of public interest will be served.

[Title 173 WAC—p 256]

(2) Consistent with this policy, the discharge of waste materials into municipal sewerage systems which would interfere with, pass through, or otherwise be incompatible with such systems or which would contaminate the sludge will not be permitted.

(3) Consistent with this policy, the department will act to prevent the disposal of wastes that present a risk to human health, including the potential, chronic effects of lifetime exposure to waste materials.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-020, filed 3/4/86. Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-216-020, filed 2/29/84. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-020, filed 11/18/83.]

WAC 173-216-030 Definitions. For the purposes of this chapter the following definitions shall be applicable:

(1) "Beneficial uses" shall include, but not be limited to, use for domestic water, irrigation, fish, shellfish, game, and other aquatic life, municipal, recreation, industrial water, generation of electric power, and navigation.

(2) "Dangerous wastes" means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means (Hazardous Waste Disposal Act, chapter 70.105 RCW).

(3) "Department" means department of ecology.

(4) "Domestic wastewater" means water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration or surface waters as may be present (submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC).

(5) "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. In case of subsurface sewage treatment and disposal, the term is restricted to mean those facilities treating and disposing of domestic wastewater only from:

(a) A septic tank with subsurface sewage treatment and disposal and an ultimate design capacity exceeding fourteen thousand five hundred gallons per day at any common point; or

(b) A mechanical treatment system or lagoon followed by subsurface disposal with an ultimate design capacity exceeding three thousand five hundred gallons per day at any common point (submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC).

(6) "FWPCA" means Federal Water Pollution Control Act as amended by 1981 amendment (33 U.S.C. § 466 et seq.).

(7) "Industrial wastewater" means water or liquid-carried waste from industrial or commercial processes, as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feed lots, poultry houses, or dairies. The term includes contaminated stormwater and, also, leachate from solid waste facilities (Submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC).

(8) "Interfere with" means a discharge by an industrial user which, alone or in conjunction with discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the FWPCA, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D or the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

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

(10) "NPDES" means National Pollutant Discharge Elimination System permit program under section 402 of FWPCA.

(11) "New source" means any building, structure, facility, or installation from which there is or may be a discharge, the construction of which commenced; after proposal of Pretreatment Standards under section 307(c) of the FWPCA which are applicable to such sources.

(12) "Pass through" means the discharge of pollutants through a municipal sewerage system into waters of the state in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of water quality standards for waters of state of Washington, chapter 173-201 WAC, or of the NPDES or state waste discharge permit, including an increase in the magnitude or duration of a violation (section 307 of FWPCA). Failure to obtain approval of an application for a new or increased discharge or change in the nature of the discharge according to WAC 173-216-110(5) would constitute such a violation.

(13) "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.

(14) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

(15) "Pretreatment requirements" means any substantive or procedural state, local, or federal requirements or standards developed under chapter 90.48 RCW and sections 307 and/or 402 of the FWPCA.

(16) "Pretreatment standards," "categorical standards," or "standards," means any pollutant discharge limitations, including those developed under section 307(b) and (c) of the FWPCA and implemented through regulations in 40 CFR Subchapter N, that apply to the discharge of nondomestic wastes to POTWs. This term includes prohibitive discharge limits established pursuant to WAC 173-216-060.

(17) "Subsurface sewage treatment and disposal" means the physical, chemical, or biological treatment and disposal of domestic wastewater within the soil profile by placement beneath the soil surface in trenches, beds, seepage pits, mounds, or fills (Submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC).

(18) "Waste materials" means any discarded, abandoned, unwanted or unrecovered material(s), except the following are not waste materials for the purposes of this chapter:

(a) Discharges into the ground or ground water of return flow, unaltered except for temperature, from a ground water heat pump used for space heating or cooling: *Provided*, That such discharges do not have significant potential, either individually, or collectively, to affect ground water quality or uses.

(b) Discharges of stormwater that is not contaminated or potentially contaminated by industrial or commercial sources.

(19) "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, ground waters, salt waters, and all other waters and water courses within the jurisdiction of the state of Washington.

(20) In the absence of other definitions as set forth herein, the definitions as set forth in 40 CFR Part 403.3 shall be used for circumstances concerning the discharge of waste into sewerage systems.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-030, filed 3/4/86. Statutory Authority: Chapters 43-21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-030, filed 11/18/83.]

WAC 173-216-040 Authorization required. (1) No waste materials may be discharged from any commercial or industrial operation into waters of the state, or into any municipal sewerage system, nor may waste materials be discharged from any municipal sewerage system into waters of the state, except as authorized pursuant to this chapter or chapter 173-220 WAC.

(2) Any person who constructs or modifies or proposes to construct or modify wastewater facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-040, filed 11/18/83.]

WAC 173-216-050 Discharges not subject to permits. (1) 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 non-compliance, 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 for which an NPDES permit from the department is required pursuant to chapter 173-220 WAC.

(f) 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 248-96 WAC which is administered by the Washington state department of social and health services.

(g) 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 248-96 WAC which is administered by the Washington state department of social and health services.

(2) A permit is required for any source subject to pretreatment standards promulgated under section 307 of FWPCA, unless exempted under subsections (1)(b) and (c) of this section.

(3) These exemptions shall not relieve any discharger from the requirement to apply all known, available, and

reasonable methods to prevent and control waste discharges to the waters of the state, nor the requirement to obtain approval of plans and reports for the construction of wastewater facilities. Nothing herein shall limit the authority of the department to take enforcement action for any unlawful discharge of waste materials or other violations of the Water Pollution Control Act, chapter 90.48 RCW.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-050, filed 3/4/86. Statutory Authority: Chapter 90.48 RCW. 85-04-006 (Order 84-51), § 173-216-050, filed 1/25/85. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-050, filed 11/18/83.]

WAC 173-216-060 Prohibited discharges. (1) The discharge restrictions and prohibitions of dangerous waste regulations, chapter 173-303 WAC shall apply to this chapter.

(2) In addition, the following are prohibited:

(a) The discharge into a municipal sewerage system of substances prohibited from such discharge by section 307 of FWPCA.

(b) All of the following discharges to a municipal sewerage system:

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

(ii) Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient either alone or by interaction to cause fire or explosion or be capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair or be injurious in any other way to the operation of the system or the operating personnel.

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

(iv) 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.

(v) Wastewater which 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.

(vi) Any waste materials, including 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.

(vii) 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:

(A) Noncontact cooling water in significant volumes.

(B) Stormwater, and other direct inflow sources.

(C) Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the system.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-060, filed 3/4/86. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-060, filed 11/18/83.]

WAC 173-216-070 Application for a permit. (1)

Any person not exempt under WAC 173-216-050, who proposes to discharge waste materials into waters of the state or into a municipal sewerage system, must file an application with the department at least sixty days prior to discharging, or in the case of an expiring permit, at least sixty days prior to the expiration of the permit.

(2) Applications for permits shall be on forms as prescribed by the department.

(3) The applicant must pay applicable fees pursuant to Wastewater discharge permit fees, chapter 173-222 WAC.

(4) The requirement for a permit application will be satisfied, if the discharger files:

(a) A completed permit application;

(b) When applicable, signature of approval by an authorized representative of the municipal sewerage system; and

(c) Any other information determined as necessary by the department.

(5) The application shall be signed in case of:

(a) Corporations, by a principal executive officer of at least the level of vice-president;

(b) A partnership, by a general partner;

(c) A sole proprietorship, by the proprietor;

(d) A municipal, state, federal, or other public facility, by either a principal executive officer or ranking elected official.

(6) In the case of application by a corporation, the principal executive officer shall personally examine the application and certify its truth, accuracy, and completeness.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-070, filed 3/4/86. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-070, filed 11/18/83.]

WAC 173-216-080 Confidentiality of information.

(1) Any information submitted pursuant to this chapter may be claimed as confidential by the applicant. Any such claim must be asserted at the time of application or notification by placing the words "confidential business information" or similar words, on each page containing such information. If no claim is made, the department may make the information available to the public without further notice. Claims of confidentiality for the following information will be denied:

(a) Name and address of applicant;

(b) Description of proposal;

(c) Description of proposed receiving waters;

(d) Description of quality and quantity of receiving water; and

(e) Description of project's environmental impacts as provided in the State Environmental Policy Act, chapter 43.21C RCW;

(f) Description of quantity and characteristics of the effluent.

(2) Claims of confidentiality will be handled in accordance with the provisions of Disclosure—Campaign finances—Lobbying—Records, chapter 42.17 RCW, Public records, chapter 173-03 WAC, and Request for certification of records as confidential—Procedure, RCW 43.21A.160.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-080, filed 11/18/83.]

WAC 173-216-090 Public notice. (1) The applicant shall publish notice for each application in such a manner to inform and seek comments from interested and potentially interested persons.

(2) The public notice shall be in a form provided by the department and shall include at least the following:

(a) Name, address, and phone number of the office of the department issuing the public notice;

(b) Name and address of the applicant, and if different, of the facility or activity to be permitted;

(c) Brief description of the applicant's activities or operations which result in the discharge described in the application (e.g. municipal waste treatment plant, steel manufacturing, drainage from mining activities);

(d) A brief description of the discharge point(s);

(e) A statement of any tentative determination to issue or deny a permit for the discharge described in the application;

(f) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by subsection (6) of this section and any other means by which interested persons may influence or comment upon those determinations; and

(g) Address and phone number of the office of the department at which interested persons may obtain further information.

(3) Circulation of public notice shall include at least publishing once each week for two consecutive weeks, at applicants' expense, a public notice in a newspaper of general circulation in the county of the proposal. The department shall also, in the case of a discharge into a municipal sewerage system, notify the municipality of the intent to issue or deny a permit.

(4) The department may require the following additional public notification requirements:

(a) Mailing the notice to persons who have expressed an interest in being notified;

(b) Mailing the notice to other state agencies and local governments with a regulatory interest in the proposal;

(c) Posting the notice on the premises.

(5) The public notification requirements do not apply for permit renewal, if there are no increases in volume or changes in characteristics of discharge beyond those previously authorized.

(6) The public notice shall include a statement that any person may express their views in writing to the department within thirty days of the last date of publication.

(7) Any person submitting written comment or any other person may, upon request, obtain a copy of the department's final decision.

(8) The applicant shall provide the department with an affidavit of publication.

(9) The department shall add the name of any person, upon request, to a mailing list to receive copies of notices for all applications within the state or within a geographical area.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-090, filed 11/18/83.]

WAC 173-216-100 Public hearings. (1) Any interested person may request a public hearing with respect to permit applications for which notice is required pursuant to WAC 173-216-090. Any such request for a public hearing shall be filed within the thirty-day period prescribed in WAC 173-216-090(6) and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted.

(2) The department shall hold a hearing if it determines there is a significant public interest.

(3) Any hearing held pursuant to this subsection shall be held at a time and place deemed appropriate by the department.

(4) Public notice of any hearing held pursuant to this section shall be circulated at least as widely as was the notice of the application.

(5) Procedures for the circulation of public notice for hearings held shall include at least the following:

(a) Notice shall be published, at the applicant's expense, in at least one newspaper of general circulation within the area of the discharge;

(b) Notice shall be sent to all persons who received a copy of the notice given under WAC 173-216-090;

(c) Notice shall be mailed to any person upon request;

(d) Notice shall be given at least thirty days in advance of the hearing.

(6) The contents of public notice of any hearing held pursuant to this section shall include at least the following:

(a) Name, address, and phone number of the office of the department holding the public hearing;

(b) The purpose of the hearing;

(c) Name and address of the applicant;

(d) A brief description of the point(s) of discharge;

(e) Information regarding the time and location for the hearing;

(f) A brief description of the nature of the hearing;

(g) A concise statement of the issues raised by the persons requesting the hearing, when applicable;

(h) A brief reference to the public notice issued for each application, including identification number and date of issuance; and

(i) Address and phone number of premises at which interested persons may obtain information.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-100, filed 11/18/83.]

WAC 173-216-110 Permit terms and conditions.

(1) Any permit issued by the department shall specify conditions necessary to prevent and control waste discharges into the waters of the state, including the following, whenever applicable:

(a) All known, available, and reasonable methods of prevention, control, and treatment;

(b) Pretreatment requirements;

(c) Requirements pursuant to other laws, including the state's Hazardous Waste Disposal Act, chapter 70.105 RCW, the Solid waste management—Recovery and recycling, 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;

(d) Any conditions necessary to meet applicable water quality standards for surface waters or to preserve or protect beneficial uses for ground waters;

(e) Requirements necessary to avoid conflict with a plan approved pursuant to section 208(b) of FWPCA;

(f) Any conditions necessary to prevent and control pollutant discharges from plant site runoff, spillage or leaks, sludge or waste disposal, or raw material storage;

(g) Any appropriate monitoring, reporting and record keeping requirements as specified by the department, including applicable requirements under sections 307 and 308 of FWPCA;

(h) Schedules of compliance, including those required under sections 301 and 307 of FWPCA, which shall set forth the shortest reasonable time period to achieve the specified requirements; and

(i) Prohibited discharge requirements as contained in WAC 173-216-060.

(2) The permits shall be for a fixed term, not exceeding five years.

(3) Representatives of the department shall have the right to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to the pollution or the possible pollution of any waters of the state. Reasonable times shall include normal business hours, hours during which production, treatment, or discharge occurs, or times when the department suspects a violation requiring immediate inspection. Representatives of the department shall be allowed to have access to, and copy at reasonable cost, any records required to be kept under terms and conditions of the permit, to inspect any monitoring equipment or method required in the permit and to sample the discharge, waste treatment processes, or internal waste streams.

(4) The permittee shall at all times be responsible for the proper operation and maintenance of any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

Where design criteria have been established, the permittee shall not permit flows or waste loadings to exceed approved design criteria or approved revisions thereto.

(5) A new application, or supplement to the previous application, shall be submitted, along with required engineering plans and reports, whenever a new or increased discharge or change in the nature of the discharge is anticipated which is not specifically authorized by the current permit. Such application shall be submitted at least sixty days prior to any proposed changes.

(6) In the event the permittee is unable to comply with any of the permit terms and conditions due to any cause, the permittee shall:

(a) Immediately take action to stop, contain, and cleanup unauthorized discharges or otherwise stop the violation, and correct the problem;

(b) Immediately notify the department of the failure to comply; and

(c) Submit a detailed written report to the department within thirty days, unless requested earlier by the department, describing the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, and any other pertinent information.

(7) In the case of discharge into a municipal sewerage system, the department shall consider in the final permit documents the requirements of the municipality operating the system.

(8) Permits 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;

(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 the preceding sentence.

(c) Facilities that are owned by nonpublic entities and under contract to a public entity shall be issued a joint permit to both the owner and the public entity.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-110, filed 3/4/86. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-110, filed 11/18/83.]

WAC 173-216-120 Transfer of a permit. (1) A permit is automatically transferred to a new owner or operator if:

(a) A written agreement between the old and new owner or operator containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to the department; and

(b) The department does not notify the permittee of the need to modify, or revoke and reissue the permit.

(2) Unless a permit is automatically transferred according to subsection (1) of this section, a permit may be transferred only if modified or revoked and reissued

to identify the new permittee and to incorporate such other requirements as determined necessary by the department.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-120, filed 11/18/83.]

WAC 173-216-130 Modification, suspension, and revocation of permits. (1) Any permit issued under this chapter can be modified, suspended, or revoked, in whole or in part by the department for the following causes:

(a) Violation of any permit term or condition;

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

(c) A material change in quantity or type of waste disposal;

(d) A material change in the condition of the waters of the state; or

(e) Nonpayment of permit fees assessed pursuant to RCW 90.48.610.

(2) The department may modify a permit, including the schedule of compliance or other conditions, if it determines good and valid cause exists, which includes promulgation or revisions of categorical standards.

[Statutory Authority: Chapter 43.21A RCW. 88-12-035 (Order 88-8), § 173-216-130, filed 5/26/88, effective 7/1/88; 86-06-040 (Order 86-03), § 173-216-130, filed 3/4/86. Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-130, filed 11/18/83.]

WAC 173-216-140 Relationship with NPDES permits. For a given facility, permit requirements under this chapter and NPDES permit requirements under Water Pollution Control Act, RCW 90.48.260, shall under normal circumstances, be contained in a single permit document, except for general permits as provided for in NPDES permit program, WAC 173-220-045.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-073 (Order DE 83-29), § 173-216-140, filed 11/18/83.]

WAC 173-216-150 Delegation of authority to issue permits for discharges into sewer systems. Qualified cities, towns, and other municipal corporations who administer a local permit program shall fulfill the requirements of chapter 173-208 WAC and 40 CFR Part 403.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-216-150, filed 3/4/86.]

Chapter 173-218 WAC

UNDERGROUND INJECTION CONTROL PROGRAM

WAC

173-218-010	Purpose.
173-218-020	Policy enunciated.
173-218-030	Definitions.
173-218-040	Authorization required.
173-218-050	Class I injection wells.
173-218-060	Class II injection wells.
173-218-070	Class III injection wells.
173-218-080	Class IV injection wells.
173-218-090	Class V injection wells.
173-218-100	Permit terms and conditions.

173-218-110 Enforcement.

WAC 173-218-010 Purpose. (1) The purpose of this chapter is to set forth the procedures and practices applicable to the injection of fluids through wells.

(2) Permits issued in accordance with the provisions of this chapter are designed:

(a) To satisfy the intent and requirements of Part C of the Federal Safe Drinking Water Act (SDWA) 42 U.S.C. § 300h et seq. as authorized by RCW 43.21A-.445 and of the Water Pollution Control Act, chapter 90.48 RCW; and

(b) To preserve and protect ground waters, including underground sources of drinking water, for existing and future beneficial uses.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-010, filed 2/29/84.]

WAC 173-218-020 Policy enunciated. (1) It shall be the policy of the department of ecology in carrying out the purposes of this chapter:

(a) To maintain the highest possible standards to prevent the injection of fluids that may endanger ground waters which are obtainable for beneficial uses or which contain fewer than 10,000 mg/L of total dissolved solids;

(b) To require the use of all known, available, and reasonable methods to prevent and control the discharge of fluids and waste fluids into the waters of the state;

(c) To protect public health and welfare through preservation and protection of the quality of the state's ground waters.

(2) Consistent with this policy:

(a) The disposal of waste fluids from industrial, commercial, or municipal sources into wells will not be authorized by the department, except that existing operations are authorized providing these operations satisfy the standards and requirements of this chapter;

(b) The department will act to prevent the disposal of waste fluids that present a risk to human health, including the potential, chronic effects of lifetime exposure to waste fluids.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-020, filed 2/29/84.]

WAC 173-218-030 Definitions. (1) "Beneficial uses" shall include, among others, uses for domestic water, irrigation, fish, shellfish, game, and other aquatic life, municipal, recreation, industrial water, generation of electric power, and navigation.

(2) "Class I injection well" means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within 1/4-mile of the well bore, an USDW.

(3) "Class II injection well" means a well used to inject fluids:

(a) Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants which are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

(b) For enhanced recovery of oil or natural gas; or
(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(4) "Class III injection well" means a well used for extraction of minerals, including but not limited to the injection of fluids for:

(a) In-situ production of uranium or other metals that have not been conventionally mined;

(b) Mining of sulfur by Frasch process; or

(c) Solution mining of salts or potash.

(5) "Class IV injection well" means a well used to inject dangerous or radioactive waste fluids.

(6) "Class V injection well" means all injection wells not included in Classes I, II, III, or IV.

(7) "Dangerous waste" means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides or any residues or containers of such substances, which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means (Hazardous Waste Disposal Act, chapter 70.105 RCW).

(8) "Department" means department of ecology.

(9) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

(10) "Ground waters" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands or flows, percolates, or otherwise moves (Regulation of public ground waters, chapter 90.44 RCW).

(11) "Injection well" means a "well" that is used for the subsurface emplacement of fluids.

(12) "New injection well" means an injection well that is proposed subsequent to the effective date of this chapter.

(13) "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.

(14) "Radioactive waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 Code of Federal Regulations Part 20, Appendix B, Table II, Column 2.

(15) "SDWA" means Part C of the Federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq.

(16) "Underground source of drinking water (USDW)" means ground waters which contain fewer than 10,000 mg/L of total dissolved solids or which are obtainable for beneficial uses.

(17) "Waste fluid" means any discarded, abandoned, unwanted, or unrecovered fluid(s), except the following are not waste fluids for the purposes of this chapter:

(a) Discharges into the ground or ground water of return flow, unaltered except for temperature, from a ground water heat pump used for space heating or cooling: *Provided*, That such discharges do not have significant potential, either individually or collectively, to affect ground water quality or beneficial uses;

(b) Discharges of stormwater that are not contaminated or potentially contaminated by industrial or commercial sources.

(18) "Well" means a bored, drilled or driven shaft, or dug hole whose depth is greater than the largest surface dimension.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-030, filed 2/29/84.]

WAC 173-218-040 Authorization required. No fluids may be injected through wells except as authorized pursuant to this chapter.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-040, filed 2/29/84.]

WAC 173-218-050 Class I injection wells. (1) New Class I injection wells are prohibited.

(2) All persons operating an existing Class I injection well operation must apply to the department for approval to operate within one year of the effective date of this chapter.

(3) The department will accept, process, and act upon the application in accordance with applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982).

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-050, filed 2/29/84.]

WAC 173-218-060 Class II injection wells. (1) Any person, who proposes to conduct or is conducting a Class II injection well operation, as defined in WAC 173-218-030 (3)(a), must notify the oil and gas conservation committee (OGCC) in accordance with the provisions of general rules, chapter 344-12 WAC.

(2) The department shall perform review, evaluation, and approval in accordance with the provisions of general rules, chapter 344-12 WAC.

(3) The department shall process a Class II injection well application, as defined in WAC 173-218-030 (3)(a), in accordance with applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982).

(4) At present, there appears to be no reasonable likelihood that approval will be sought for a Class II injection well for either enhanced recovery of oil or natural gas or for storage of liquid hydrocarbons; therefore, Class II injection wells as defined in 173-218-030

(3)(b) and (3)(c) are not authorized. If it appears likely that approval will be sought for either of these types of injection wells, these regulations will be amended to include an appropriate regulatory program.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-060, filed 2/29/84.]

WAC 173-218-070 Class III injection wells. At present, there appears to be no reasonable likelihood that approval will be sought for a Class III injection well; therefore, Class III injection wells are not authorized. If it appears likely that approval will be sought for a Class III injection well, these regulations will be amended to include an appropriate regulatory program.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-070, filed 2/29/84.]

WAC 173-218-080 Class IV injection wells. Class IV injection wells are prohibited regardless of proximity to USDW.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-080, filed 2/29/84.]

WAC 173-218-090 Class V injection wells. (1) All new Class V injection wells that inject industrial, municipal, or commercial waste fluids into or above an USDW are prohibited.

(2) All persons operating an existing Class V injection well, that inject industrial, commercial, or municipal waste fluids into or above an USDW, must apply to the department for approval to operate within one year of the effective date of this regulation. The department will accept, process, and act upon the application in accordance with the procedures and practices of the State waste discharge permit program, chapter 173-216 WAC.

(3) All other Class V injection well owners and operators must notify the department of the location of injection wells within one year of approval of the state underground injection control program by the United States Environmental Protection Agency. The notification shall be on a form as prescribed by the department and will include the information needed to satisfy the requirements of 40 Code of Federal Regulations Part 146.52.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-090, filed 2/29/84.]

WAC 173-218-100 Permit terms and conditions.

(1) Any permit issued by the department shall specify conditions necessary to prevent and control injection of fluids into the waters of the state, including the following, whenever applicable:

(a) All known, available, and reasonable methods of prevention, control, and treatment;

(b) Applicable requirements as contained in 40 Code of Federal Regulations Parts 124 and 144 as published in Federal Register Volume 48, #64 (April 1, 1983) and Part 146 as published in Federal Register Volume 45, #123 (June 24, 1980), Volume 46, #166 (August 27, 1981) and Volume 47, #23 (February 3, 1982); and

(c) Any conditions necessary to preserve and protect USDW.

(2) Any injection well that causes or allows the movement of fluid into an USDW that may result in a violation of any primary drinking water standard under 40 Code of Federal Regulations Part 141 or that may otherwise adversely affect the beneficial use of an USDW is prohibited.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-100, filed 2/29/84.]

WAC 173-218-110 Enforcement. (1) For violations of this chapter, the department shall have the remedies available in the Water Pollution Control Act, chapter 90.48 RCW, and all other applicable statutes.

(2) All injection well operations not operated in accordance with the provisions of this chapter, that cause or tend to cause entry of fluids into the waters of the state as a result of a violation of these provisions, constitutes pollution of the waters of the state in violation of RCW 90.48.080.

[Statutory Authority: RCW 43.21A.445. 84-06-023 (Order DE 84-02), § 173-218-110, filed 2/29/84.]

Chapter 173-220 WAC

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT PROGRAM

WAC

173-220-010	Purpose.
173-220-020	Permit required.
173-220-030	Definitions.
173-220-040	Application for permit.
173-220-045	General permits.
173-220-050	Public notice.
173-220-060	Fact sheets.
173-220-070	Notice to other government agencies.
173-220-080	Public access to information.
173-220-090	Public hearings.
173-220-100	Public notice of public hearings.
173-220-110	Permit preparation.
173-220-120	Prohibited discharges.
173-220-130	Effluent limitations, water quality standards and other requirements for permits.
173-220-135	Signing of permits.
173-220-140	Schedules of compliance.
173-220-150	Other terms and conditions.
173-220-160	Transmission of issued permit to regional administrator.
173-220-170	Relationship with non-NPDES permits.
173-220-180	Duration and replacement of existing permit.
173-220-190	Modification and revocation of permits.
173-220-200	Transfer of permit.
173-220-210	Monitoring, recording and reporting.
173-220-225	Appeals.
173-220-230	Enforcement.
173-220-240	Relationship of department of ecology to permits issued by the energy facility site evaluation council.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-220-220	Control of disposal of pollutants into wells. [Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-220, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-220, filed 12/1/82; Order DE 74-1, § 173-220-220, filed
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2/15/74.] Repealed by 88-22-059 (Order 88-9), filed 11/1/88. Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW.

WAC 173-220-010 Purpose. The purpose of this chapter is to establish a state permit program, applicable to the discharge of pollutants and other wastes and materials to the surface waters of the state, operating under state law as a part of the National Pollutant Discharge Elimination System (NPDES) created by section 402 of the Federal Water Pollution Control Act (FWPCA). Permits issued under this chapter are designed to satisfy the requirements for discharge permits under both section 402(b) of the FWPCA and chapter 90.48 RCW.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-010, filed 11/1/88; Order DE 74-1, § 173-220-010, filed 2/15/74.]

WAC 173-220-020 Permit required. No pollutants shall be discharged to any surface water of the state from a point source, except as authorized by an individual or general permit issued pursuant to this chapter.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-020, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-020, filed 12/1/82; Order DE 74-1, § 173-220-020, filed 2/15/74.]

WAC 173-220-030 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) "Combined waste treatment facility" means any publicly owned waste treatment facility in which the maximum monthly average influent from any one industrial category, or categories producing similar wastes, constitutes over eighty-five percent of the design load for biochemical oxygen demand or suspended solids. Each single industrial category must contribute a minimum of ten percent of the applicable load.

(3) "Department" means department of ecology.

(4) "Director" means the director of the department of ecology or his/her authorized representative.

(5) "Discharge of pollutant" and the term "discharge of pollutants" each means (a) any addition of any pollutant or combination of pollutants to surface waters of the state from any point source, (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source, other than a vessel or other floating craft which is being used as a means of transportation.

(6) "Discharger" means owner or operator of any facility or activity subject to regulation under the NPDES program.

(7) "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.

(8) "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.

This term applies only to facilities discharging to surface water.

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

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

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

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

(13) "Major discharger" means any discharger classified as such by the administrator in conjunction with the director and published in the annual state-EPA agreement.

(14) "Minor discharger" means any discharger not designated as major or covered under a general permit.

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

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

(17) "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.

(18) "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.

(19) "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.

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

(21) "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.

(22) "Water quality standards" means the state of Washington's water quality standards for surface waters of the state, which are codified in chapter 173-201 WAC.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-030, filed 11/1/88. Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-030, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-030, filed 12/1/82; Order DE 74-1, § 173-220-030, filed 2/15/74.]

WAC 173-220-040 Application for permit. (1) Any person presently discharging pollutants to surface waters of the state must file an application with the department on a form prescribed by the department. For the purpose of satisfying the requirements of this subsection, any completed application filed with the Environmental Protection Agency prior to the approval by the administrator under section 402(b) of the FWPCA of this state permit program shall constitute a filing with the department.

(2) Any person proposing to commence a discharge of pollutants to surface waters of the state must file an application with the department on a form prescribed by the department, (a) no less than one hundred eighty days in advance of the date on which it is desired to commence the discharge of pollutants, or (b) in sufficient time prior to commencement of the discharge of pollutants to insure compliance with the requirements of section 306 of the FWPCA and any other applicable water quality standards or effluent standards and limitations.

(3) The applicant must pay any applicable fees required pursuant to RCW 90.48.610.

(4) The requirement for permit application will be satisfied if the discharger files:

(a) A complete application form which is appropriate for the type, category, or size of discharge per 40 CFR 122.21; or

(b) A complete request for coverage by a general permit; and

(c) Any additional information required by the department pertaining to pollutant discharge.

(5) The application form shall bear a certification of correctness to be signed:

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

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

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

(d) In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.

(6) Applications for permits for domestic wastewater facilities that are either owned or operated by, or under contract to, a public entity shall be submitted by the public entity.

(7) No discharge of pollutants into the surface waters of the state is authorized until such time as a permit has been issued consistent with the terms and conditions of this chapter.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-040, filed 11/1/88. Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-220-040, filed 3/4/86. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-040, filed 12/1/82; Order DE 74-1, § 173-220-040, filed 2/15/74.]

WAC 173-220-045 General permits. (1) The director may issue general permits to cover categories of dischargers as described under subsection (2) 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.

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

(a) Storm water point sources; or

(b) Categories of point sources which meet all of the following requirements:

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

(ii) Discharge the same types of wastes;

(iii) Require the same 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.

(3) 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 those listed in subsection (4) of this section.

(4) The director may require any discharger authorized by a general permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to the following:

(a) The discharger is not in compliance with conditions of the general permit;

(b) A change occurs in the technology or practices for control or abatement of pollutants applicable to the point source;

(c) Effluent limitation guidelines are promulgated for point sources covered by the general permit;

(d) A water quality management plan containing requirements applicable to such point sources is approved;

(e) Effluent limitations more stringent than those contained in a general permit are necessary to meet water quality standards;

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

(g) Other causes listed in WAC 173-220-150 (1)(d).

(5) In cases where the director requires any discharger to apply for an individual permit, the discharger must be notified in writing that an individual permit application is required. This notice shall include a statement of why an individual permit is being required, an application form and a time limit for submitting the application.

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

(7) Any discharger authorized by a general permit may request to be excluded from coverage by the 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.

(8) 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.

(9) Following issuance by the department of a general permit all dischargers who desire to be covered by the general permit shall notify the department on a form prescribed by the department. Unless the department responds in writing to the notification, coverage of a discharger by a general permit will automatically commence on the thirty-first day following the end of the thirty-day comment period required by WAC 173-220-050(2).

(10) 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.

(11) Where the department has determined that a discharger should not be covered by a general permit, it shall respond in writing within thirty days, to a request 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 by the general permit to become effective.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-045, filed 11/1/88. Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-220-045, filed 3/4/86. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-045, filed 12/1/82.]

WAC 173-220-050 Public notice. (1) Public notice of every draft permit determination regarding an individual permit or general permit, and request for coverage by a general permit, shall be circulated in a manner designed to inform interested and potentially affected persons of the proposed discharge and of the proposed determination to issue or deny a permit for the proposed discharge, as follows:

(a) For individual permits, notice shall be circulated within the geographical area of the proposed discharge; such circulation may include any or all of the following, as directed by the department:

(i) Posting by the applicant for a period of thirty days in the post office, public library, and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting by the applicant for a period of thirty days near the entrance of the applicant's premises and nearby places;

(iii) Publishing by the applicant, at his own cost within such time as the director shall prescribe, through a notice form provided by the department, in major local newspapers of general circulation serving the area in which the discharge occurs: *Provided*, That if an applicant fails to publish notice within thirty days of the time prescribed by the director, the department may publish the notice and bill the applicant for the cost of publication;

(iv) Publishing by the applicant of paid advertisements;

(v) Publishing by the department of news releases or newsletter articles.

(b) For general permits, such circulation shall include the following:

(i) Publishing by the department of a notice of intent to issue a general permit in a major local newspaper of general circulation in each affected area; and

(ii) Posting or publishing by the applicant of a request for coverage by a general permit in accordance with any or all methods listed in (a)(i), (ii), (iii), (iv), or (v) of this subsection, as directed by the department.

(c) Notice shall be mailed to any person upon request; and

(d) The department shall add the name of any person upon request to a mailing list to receive copies of notices within the state or within a certain geographical area.

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

(3) The department shall prepare the contents of the public notice, which shall, at a minimum, summarize the following:

(a) Name, address, phone number of agency issuing the public notice;

(b) Except when unknown in the case of general permit issuance, name and address of each applicant, and if different, of the facility or activity to be regulated;

(c) Each applicant's activities or operations which result in a discharge (e.g., municipal waste treatment, steel manufacturing, drainage from mining activities);

(d) Except in the case of general permit issuance, name of waterway to which each discharge is made and the location of each discharge on the waterway, indicating whether such discharge is a new or an existing discharge;

(e) The tentative determination to issue or deny a permit for the discharge;

(f) Where coverage by a general permit is replacing a current individual permit, notice of termination of the individual permit;

(g) The procedures for the formulation of final determinations, including the thirty-day comment period required by subsection (2) of this section and any other means by which interested persons may comment upon those determinations; and

(h) Address and phone number of state premises at which interested persons may obtain further information.

(4) The department shall provide copies of permit applications, draft permit determinations, requests for coverage, and general permits upon request.

(5) The department shall notify the applicant and persons who have submitted written comments or requested notice of the final permit decision. This notification shall include response to comments received and reference to the procedures for contesting the decision.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-050, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-050, filed 12/1/82; Order DE 76-20, § 173-220-050, filed 5/19/76; Order 74-7, § 173-220-050, filed 5/1/74; Order DE 74-1, § 173-220-050, filed 2/15/74.]

WAC 173-220-060 Fact sheets. (1) The department shall prepare a fact sheet for every draft permit determination regarding major dischargers, minor dischargers, and general permits. Such fact sheets shall, at a minimum, summarize the following:

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

(b) The location of the discharge in the form of a sketch or detailed description;

(c) The type and quantity of the discharge, including at least the following:

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

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

(iii) The average discharge 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;

(d) The conditions in the proposed permit;

(e) The legal and technical grounds for the draft permit determination, including 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;

(f) The effluent standards and limitations applied to the proposed discharge;

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

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

(i) 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 173-220-050(2);

(ii) Procedures for requesting a public hearing and the nature thereof; and

(iii) Any other procedures by which the public may participate in the formulation of the final determinations.

(2) The department shall send a fact sheet to the applicant and, upon request, to any other person.

(3) The department shall add the name of any person upon request to a mailing list to receive copies of fact sheets.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-060, filed 11/1/88. Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-220-060, filed 3/4/86. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-060, filed 12/1/82; Order DE 74-1, § 173-220-060, filed 2/15/74.]

WAC 173-220-070 Notice to other government agencies. The department shall notify other appropriate government agencies of each draft permit determination or request for coverage and shall provide such agencies an opportunity to submit their written views and recommendations. Such notification shall include the following:

(1) Unless the regional administrator has agreed to waive review, transmission of an application, fact sheet, and draft permit to the regional administrator for comment or objection within thirty days (ninety days for general permits), or a longer period if requested up to a maximum of ninety days.

(2) At the time of issuance of public notice pursuant to WAC 173-220-050, transmission of the public notice to any other states whose waters may be affected by the issuance of a permit. Each affected state shall be afforded an opportunity to submit written recommendations 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.

(3) Unless waived by the respective agency, the public notice 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, natural resources, wildlife, and social and health services, the archaeology and historic preservation office, 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.

(4) A copy of any written agreement between the department and an agency identified in subsection (3) of this section which waives the receipt of public notices shall be forwarded to the regional administrator and shall be made available to the public for inspection and copying.

(5) Copies of public notices 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, comment, or request a public hearing pursuant to WAC 173-220-090.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-070, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-070, filed 12/1/82; Order DE 74-1, § 173-220-070, filed 2/15/74.]

WAC 173-220-080 Public access to information.

(1) In accordance with chapter 42.17 RCW, the department shall make records relating to NPDES permits available to the public for inspection and copying.

(2) The department shall protect any information (other than information on the effluent) contained in its NPDES permit records 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.

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

(4) The department shall provide facilities for the inspection of information relating to NPDES 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 documents may be honored promptly.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-080, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-080, filed 12/1/82; Order DE 74-1, § 173-220-080, filed 2/15/74.]

WAC 173-220-090 Public hearings. The applicant, any affected state, any affected interstate agency, any affected country, the regional administrator, or any interested agency or person may request a public hearing with respect to a draft permit determination or request for coverage by a general permit. Any such request for a public hearing shall be filed within the thirty-day period prescribed in WAC 173-220-050(2) and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The department shall hold a hearing if it determines there is a significant public interest. Instances of doubt will be resolved in favor of holding the hearing. Any hearing brought pursuant to this subsection shall be held at a time and place deemed appropriate by the department.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-090, filed 11/1/88. Statutory Authority: RCW 90.48.010, 90.48.035, and 90.58.260. 83-10-063 (Order DE 83-14), § 173-220-090, filed 5/4/83; Order DE 74-1, § 173-220-090, filed 2/15/74.]

WAC 173-220-100 Public notice of public hearings.

(1) The department shall circulate public notice of any hearing held pursuant to WAC 173-220-090 at least as widely as was the notice pursuant to WAC 173-220-

050. Procedures for the circulation of public notice for hearings held under WAC 173-220-090 shall include at least the following:

(a) Notice shall be published in at least one major local newspaper of general circulation within the geographical area of the discharge;

(b) Notice shall be sent to all persons and government agencies who received a copy of the notice pursuant to WAC 173-220-050 or the fact sheet;

(c) Notice shall be mailed to any person upon request; and

(d) Notice shall be effected pursuant to (a) and (c) of this subsection at least thirty days in advance of the hearing.

(2) The contents of public notice of any hearing held in pursuant to WAC 173-220-090 shall include at least the following:

(a) Name, address, and phone number of agency holding the public hearing;

(b) A reference to the public notice issued pursuant to WAC 173-220-050, including identification number and date of issuance;

(c) The time and location for the hearing;

(d) The purpose of the hearing;

(e) Address and phone number of premises at which interested persons may obtain information;

(f) The nature of the hearing;

(g) The issues raised by the persons requesting the hearing, and any other appropriate issues which may be of interest to the public;

(i) Except when unknown in the case of general permit determinations, the name and address of each applicant whose proposed discharge will be considered at the hearing;

(ii) Except when unknown in the case of general permit determinations, the name of waterway to which each discharge is made and the location of each discharge on the waterway.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-100, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-100, filed 12/1/82; Order DE 74-1, § 173-220-100, filed 2/15/74.]

WAC 173-220-110 Permit preparation. The department will prepare tentative staff determinations with respect to a permit application or a determination that a class of dischargers is appropriately covered by a general permit, in advance of public notice of the proposed issuance or denial of a permit. Such tentative determinations shall include at least the following:

(1) A proposed determination to issue or deny a permit for the discharge described in the application; and

(2) If the determination is to issue the permit, the following shall be included in a draft permit:

(a) Proposed effluent limitations for those pollutants proposed to be limited;

(b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and

(c) A brief description of any other proposed special conditions which will have a significant impact upon the discharge described in the application.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-110, filed 12/1/82; Order DE 74-1, § 173-220-110, filed 2/15/74.]

WAC 173-220-120 Prohibited discharges. No permit issued by the department shall authorize any person to:

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

(2) Discharge any pollutants which the secretary of the army acting through the chief, corps of engineers, finds would substantially impair anchorage and navigation;

(3) Discharge any pollutant to 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;

(4) Discharge from a point source any pollutant which is in conflict with the plan or amendment thereto approved pursuant to section 208(b) of the FWPCA;

(5) Discharge any pollutant subject to a toxic pollutant discharge prohibition under section 307 of FWPCA.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-120, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-120, filed 12/1/82; Order DE 74-1, § 173-220-120, filed 2/15/74.]

WAC 173-220-130 Effluent limitations, water quality standards and other requirements for permits. (1) Any permit issued by the department shall apply and insure compliance with all of the following, whenever applicable:

(a) All known, available, and reasonable methods of treatment required under RCW 90.52.040, 90.54.020 (3)(b), and 90.48.520; including effluent limitations established under sections 301, 302, 306, and 307 of the FWPCA. The effluent limitations shall not be less stringent than those based upon the treatment facility design efficiency contained in approved engineering plans and reports or approved revisions thereto. The effluent limitations shall reflect any seasonal variation in industrial loading. Modifications to technology-based effluent limitations for specific discharge categories are as follows:

(i) For combined waste treatment facilities, the effluent limitations for biochemical oxygen demand or suspended solids may be adjusted upwards to a maximum allowed by applying effluent limitations pursuant to sections 301 (b)(1)(B) of the FWPCA to the domestic portion of the influent and effluent limitations pursuant to sections 301 (b)(1)(A)(i), 301 (b)(2)(A), and 301 (b)(2)(E) of the FWPCA or standards of performance pursuant to section 306 of the FWPCA to the industrial portion of the influent: *Provided*, That the following additional condition is met:

Fecal coliform levels shall not exceed a monthly geometric mean of 200 organisms per 100 ml with a maximum weekly geometric mean of 400 organisms per 100 ml;

(ii) For municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river, the effluent limitations shall be adjusted, in accordance with RCW 90.54.020 (3)(b), to reflect credit for substances removed from the plant intake water if:

(A) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(B) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(b) Any more stringent limitation, including those necessary to:

(i) Meet water 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; or

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

(iii) Implement any applicable water quality standards; such limitations to include 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;

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

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

(c) Any more stringent legal applicable requirements necessary to comply with a plan approved pursuant to section 208(b) of the FWPCA; and

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

(2) In any case where an issued permit applies the effluent standards and limitations described in subsection (1)(a) of this section, the department shall make a finding that any discharge authorized by the permit will not violate applicable water quality standards.

(3) In the application of effluent standards and limitations, water quality standards and other legally applicable requirements pursuant to subsections (1) and (2) of this section, each issued 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; and

(c) If a dilution zone is authorized within which water quality standards are modified, the dimensions of such dilution zone.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-130, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-130, filed 12/1/82; Order DE 74-1, § 173-220-130, filed 2/15/74.]

WAC 173-220-135 Signing of permits. Permits authorized for issuance under chapter 173-220 WAC may be signed by the director or any person designated in WAC 173-06-030.

[Order DE 74-1, § 173-220-135, filed 2/15/74.]

WAC 173-220-140 Schedules of compliance. (1) The department shall establish schedules and permit conditions as follows to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements:

(a) With respect to any discharge which is found not to be in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in WAC 173-220-130, the permittee shall be required to take specific steps to achieve compliance with the following:

Any legally applicable schedule of compliance contained in:

(i) Section 301 of FWPCA;

(ii) Applicable effluent standards and limitations;

(iii) Water quality standards; and

(iv) Applicable requirements listed in WAC 173-220-130, 173-220-150, and 173-220-210;

(b) Schedules of compliance, shall set forth the shortest, reasonable period of time, to achieve the specified requirements, such period to be consistent with the guidelines and requirements of the FWPCA.

(2) 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 in the permit which 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.

(3) 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 the interim or final requirement.

(4) On the last day of the months of February, May, August, and November, the department shall transmit to the regional administrator a list of all instances in the

previous ninety days of failure or refusal of a major permittee to comply with an interim or final requirement. Such list shall be available to the public for inspection and copying and shall contain at least the following information on each instance of noncompliance:

(a) Name and address of each noncomplying permittee;

(b) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, delay in commencement of construction of treatment facility, failure to notify department of compliance with an interim requirement, etc.)

(c) A short description of any actions or proposed actions by the permittee or the department to comply or enforce compliance with the interim or final requirement; and

(d) Any details which explain or mitigate an instance of noncompliance with an interim or final requirement.

(5) If a permittee fails or refuses to comply with an interim or final requirement in a permit, such noncompliance shall constitute a violation of the permit for which the department may modify or revoke the permit or take direct enforcement action.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-140, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-140, filed 12/1/82; Order DE 74-1, § 173-220-140, filed 2/15/74.]

WAC 173-220-150 Other terms and conditions. (1) In addition to the requirements of WAC 173-220-130 and 173-220-140, each issued permit shall require that:

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

(b) Any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants causing effluent limitations in the permit to be exceeded must be reported to the department by submission of a new application or supplement thereto; or, if such discharge does not violate effluent limitations specified in the permit, by submission to the department of notice of such new or increased discharges of pollutants;

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

(d) The permit may be modified or revoked in whole or in part during its terms for cause including, but not limited to, the following:

(i) Violation of any term or condition of the permit;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

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

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

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

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

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

(viii) Nonpayment of permit fees assessed pursuant to RCW 90.48.610.

(e) The permittee shall allow the department or its authorized representative upon the presentation of credentials and 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, subject to any access restrictions due to the nature of the project;

(ii) To have access to, and 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

(iv) To sample any discharge of pollutants.

(f) If the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the department of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the FWPCA if such source were discharging pollutants;

(ii) Except as to such categories and classes of point sources or discharges specified by the department, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the FWPCA if such source were discharging pollutants;

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source existing at the time of issuance of the permit.

Such notice shall include information on:

(A) The quality and quantity of effluent to be introduced into such treatment works; and

(B) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(g) The permittee shall at all times properly operate and maintain any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the 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.

(2) Every permit shall be conditioned to insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308 of the FWPCA.

(3) When deemed necessary by the department, any publicly owned treatment works shall be required to develop a full or partial local pretreatment program as specified in 40 CFR Part 403. Permit conditions for a

municipality which has received full local pretreatment program approval shall include:

(a) Granting of authority to issue permits under chapter 173-208 WAC;

(b) A requirement to develop, adopt, and enforce a program that is at least as stringent as the department's program under chapter 173-216 WAC; and

(c) A requirement to report to the department at a specified frequency on the status of its implementation.

(4) Permits 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 the preceding sentence.

(5) For facilities that are owned by nonpublic entities and under contract to a public entity, the permit shall be issued to the public entity.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-150, filed 11/1/88. Statutory Authority: Chapter 43.21A RCW. 88-12-035 (Order 88-8), § 173-220-150, filed 5/26/88, effective 7/1/88; 86-06-040 (Order 86-03), § 173-220-150, filed 3/4/86. Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-150, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-150, filed 12/1/82; Order DE 74-1, § 173-220-150, filed 2/15/74.]

WAC 173-220-160 Transmission of issued permit to regional administrator. Immediately following issuance, the department shall transmit a copy of every issued permit along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization by the permit of the discharge of pollutants to the regional administrator.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-160, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-160, filed 12/1/82; Order DE 74-1, § 173-220-160, filed 2/15/74.]

WAC 173-220-170 Relationship with non-NPDES permits. Discharges of pollutants or other wastes that require permits from the department under RCW 90.48.160, which are not satisfied through permits issued under this chapter, shall be subject to the permit requirements of RCW 90.48.160, et seq. Except where permits under RCW 90.48.160 are issued by a municipal corporation pursuant to chapter 173-208 WAC, permit requirements under this chapter and permit requirements under RCW 90.48.160 shall be contained in a single permit document.

[Title 173 WAC—p 272]

[Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-170, filed 12/1/82; Order DE 74-1, § 173-220-170, filed 2/15/74.]

WAC 173-220-180 Duration and replacement of existing permit. (1) Permits shall be issued for fixed terms not exceeding five years.

(2) Any permittee shall make application for replacement to an existing permit or continuation of a discharge beyond the expiration date of his/her permit by filing with the department an application for replacement of the permit at least one hundred eighty days prior to its expiration.

(3) The scope and manner of any review of an application for replacement of a permit by the department shall be sufficiently detailed as to insure the following:

(a) That the permittee is in substantial compliance with all of the terms, conditions, requirements and schedules of compliance of the expired permit;

(b) That the department has up-to-date information on the permittee's production levels; permittee's waste treatment practices; nature, content and frequencies of permittee's discharge; either pursuant to the submission of new forms and applications or pursuant to monitoring records and reports resubmitted to the department by the permittee; and

(c) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements listed in WAC 173-220-130.

(4) The notice and public participation procedures specified in WAC 173-220-050 through 173-220-100 are applicable to each draft replacement permit.

(5) When a permittee has made timely and sufficient application for the renewal of a permit, an expiring permit remains in effect and enforceable until the application has been denied or a replacement permit has been issued by the department.

(6) Notwithstanding any other provision in this chapter, any point source, the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act amendments of 1972 and which is so constructed as to meet all applicable standards of performance, shall not be subject insofar as the FWPCA is concerned to any more stringent standard of performance during a ten year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-180, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-180, filed 12/1/82; Order DE 74-1, § 173-220-180, filed 2/15/74.]

WAC 173-220-190 Modification and revocation of permits. (1) Any permit issued under this chapter can be modified or revoked in whole or in part by the department for cause including, but not limited to, the causes listed in WAC 173-220-150 (1)(d) or when remanded

to the department for modification by the pollution control hearings board.

(2) The department may, upon request of the permittee, modify a schedule of compliance or an operating condition in an issued permit if it determines good and valid cause exists for such revision (such as an act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control and for which there is no other reasonably available remedy).

(3) The department shall modify or revoke permits only after public notice and opportunity for public hearing as provided in this chapter in those instances where changes are proposed which lessen the stringency of effluent limitations. In all other instances, the form of public notice and public participation, if any, shall be determined by the department on a case-by-case basis according to the significance of the proposed action.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-190, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-190, filed 12/1/82; Order DE 74-1, § 173-220-190, filed 2/15/74.]

WAC 173-220-200 Transfer of permit. (1) A permit is automatically transferred to a new discharger if:

(a) A written 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

(b) The director does not notify the old and new discharger of his/her intent to modify, or revoke and reissue the permit. If this notice is not given, the transfer is effective on the date specified in the agreement mentioned in (a) of this subsection.

(2) Unless a permit is automatically transferred according to subsection (1) of this section, a permit may be transferred only if modified or revoked and reissued to identify the new permittee and incorporate such other requirements as may be necessary.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-200, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-200, filed 12/1/82; Order DE 74-1, § 173-220-200, filed 2/15/74.]

WAC 173-220-210 Monitoring, recording and reporting. (1) Monitoring.

(a) Any discharge authorized by a 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:

(i) Flow (in gallons per day);

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

(iii) Pollutants which the department finds could have a significant impact on the quality of surface waters; and

(iv) 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 which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant.

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.

(c) Monitoring of intake water, influent to treatment facilities, internal waste streams, and/or receiving waters may be required when determined necessary 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 surface waters of the state.

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

(a) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his 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 shall be required to retain for a minimum of three years any records of monitoring activities and results 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 permittee shall periodically report (at a frequency of not less than once per year) on the proper reporting form, the monitoring results obtained pursuant to monitoring requirements in a permit. In addition to the required reporting form, the department at its discretion may require submission of such other results as it determines to be necessary.

(b) Monitoring reports shall be signed by:

(i) In the case of corporations, by a responsible corporate officer or his 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, by a general partner.

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

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

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-210, filed 11/1/88. Statutory Authority: Chapter 90.48 RCW. 84-11-024 (Order DE 84-19), § 173-220-210, filed 5/11/84. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-210, filed 12/1/82; Order DE 74-1, § 173-220-210, filed 2/15/74.]

WAC 173-220-225 Appeals. (1) Individual permits are subject to appeals as specified in chapter 43.21B RCW.

(2) For general permits: (a) The terms and conditions of a general permit as they apply to the appropriate class of dischargers is subject to appeal within thirty days of issuance of a general permit in accordance with chapter 43.21B RCW; (b) the terms and conditions of a general permit as they apply to an individual discharger are subject to appeal in accordance with chapter 43.21B RCW within thirty days of the effective date of coverage of that discharger. Consideration of an appeal of general permit coverage of an individual discharger is limited to the general permit's applicability or nonapplicability to that discharger. Appeal of general permit coverage of an individual discharger does not affect any other individual dischargers. If the terms and conditions of a general permit are found to be inapplicable to any discharger, the matter shall be remanded to the department for consideration of issuance of an individual permit.

[Statutory Authority: RCW 90.54.020 and chapter 90.48 RCW. 88-22-059 (Order 88-9), § 173-220-225, filed 11/1/88. Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-225, filed 12/1/82.]

WAC 173-220-230 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 permits or conditions thereof without the necessity of a prior revocation of the 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 permit, and otherwise be able to investigate, inspect, or monitor any suspected violations of water quality standards, or effluent standards and limitations, or of permits or 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 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, (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.

[Order DE 74-1, § 173-220-230, filed 2/15/74.]

WAC 173-220-240 Relationship of department of ecology to permits issued by the energy facility site evaluation council. (1) The energy facility site evaluation council (EFSEC) shall be the state agency to receive applications for, issue, and modify permits for energy facilities subject to chapter 80.50 RCW. Processing of such applications shall be controlled by chapter 463-38 WAC. Application for issuance and modification of permits for all other energy facilities shall be the responsibility of the department.

(2) Monitoring, recording, and reporting activities required of operators of all energy facilities by the terms of a permit issued by EFSEC shall be supervised and enforced by the department.

(3) The department shall carry on an inspection program for the periodic inspection (to be performed not less than once every year) of discharges of pollutants from energy facilities authorized by a permit issued by EFSEC. Such inspections shall determine compliance or noncompliance with issued permits and, in particular, compliance or noncompliance with specific effluent limitations and schedules of compliance in such permits.

(4) The department shall carry on a surveillance program with respect to energy facility discharges for the random sampling and analysis of the discharge for the purpose of identifying occasional and continuing violations of permit conditions and the accuracy of information submitted by permittees in reporting forms.

(5) Enforcement activities regarding the NPDES program, including the levying of civil and criminal fines pertaining to all thermal power plants, whether the permit is issued by the department or EFSEC, shall be undertaken by the department, EFSEC, the attorney general, or the prosecuting attorney, as appropriate.

(6) Nothing in this section shall authorize the department to undertake enforcement or monitoring activities in a manner not consistent with the terms and conditions of any EFSEC-issued NPDES permit.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 82-24-078 (Order DE 82-39), § 173-220-240, filed 12/1/82; Order DE 74-1, § 173-220-240, filed 2/15/74.]

Chapter 173-221 WAC

DISCHARGE STANDARDS AND EFFLUENT LIMITATIONS FOR DOMESTIC WASTEWATER FACILITIES

WAC

173-221-010	Purpose and scope.
173-221-020	Policy.
173-221-030	Definitions.
173-221-040	Domestic wastewater facility discharge standards.
173-221-050	Alternative domestic wastewater facility discharge standards and effluent limitations.
173-221-100	Severability.

WAC 173-221-010 Purpose and scope. (1) The purpose of this chapter is to implement RCW 43.21A-.010, 90.48.010, and 90.52.040 by setting discharge standards which represent "all known, available, and reasonable methods" of prevention, control, and treatment for domestic wastewater facilities which discharge to waters of the state. This chapter supplements WAC 173-220-130. Guidelines or policies of the department not included in this chapter are not affected by this chapter, except that if such guidelines or policies are in conflict, the requirements of this chapter shall take precedence.

(2) This chapter also supplements 40 CFR Part 133; Secondary Treatment Regulation. Wherever this chapter is more stringent than the federal regulation, the requirements of this chapter shall take precedence.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-010, filed 11/12/87.]

WAC 173-221-020 Policy. Waters of the state shall be of the highest possible quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for discharge into said waters shall be provided with all known, available, and reasonable methods of treatment prior to discharge. Even though standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except (1) in those situations where it is clear that overriding considerations of the public interest will be served, and (2) they receive all known, available, and reasonable methods of treatment prior to discharge.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-020, filed 11/12/87.]

WAC 173-221-030 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Seven-day average" means the arithmetic mean of pollutant parameter values for samples collected in a period of seven consecutive days. The department may use pollutant parameter values for samples collected in a calendar week for determining compliance with permit conditions.

(2) "Thirty-day average" means the arithmetic mean of pollutant parameter values for samples collected in a period of thirty consecutive days. The department may use pollutant parameter values for samples collected in a calendar month for determining compliance with permit conditions.

(3) "BOD" means five-day biochemical oxygen demand.

(4) "CBOD" means five-day carbonaceous biochemical oxygen demand.

(5) "Combined sewer" means a sewer which has been designed to serve as a sanitary sewer and a storm sewer, and into which inflow is allowed by local ordinance.

(6) "Department" means the Washington department of ecology.

(7) "Director" means the director of the Washington department of ecology.

(8) "Discharge standard" means a minimum performance requirement established in regulation by the department. Effluent limitations for a pollutant parameter shall not be less stringent than the applicable discharge standard.

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

(10) "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. In the case of subsurface sewage treatment and disposal, the term is restricted to mean those facilities treating and disposing of domestic wastewater only from:

(a) A septic tank system with subsurface sewage treatment and disposal and an ultimate design capacity exceeding fourteen thousand five hundred gallons per day at any common point; or

(b) A mechanical treatment system or lagoon followed by subsurface disposal with an ultimate design capacity exceeding three thousand five hundred gallons per day at any common point.

Where the proposed system utilizing subsurface disposal has received a state construction grant or a federal construction grant under the Federal Water Pollution Control Act as amended, such system is a "domestic wastewater facility" regardless of size.

(11) "Effluent concentrations consistently achievable through proper operation and maintenance" means:

(a) For a given pollutant parameter, the 95th percentile value for the thirty-day average effluent quality achieved by a wastewater facility in a period of at least twenty-four consecutive months, excluding values attributable to equipment failures, operational errors, overloading, and other unusual conditions; and

(b) A seven-day average value equal to 1.5 times the value derived under (a) of this subsection.

(12) "Effluent limitation" means any restriction, prohibition, or specification established by the department in a permit or administrative order on:

(a) Quantities, rates, percent removals, and/or concentrations of physical, chemical, or biological characteristics of wastes which are discharged into waters of the state; and

(b) Management practices relevant to the prevention or control of such waste discharges.

Effluent limitations shall be derived from discharge standards and other relevant factors identified in chapter 173-220 WAC.

(13) "Expansion" means the construction of additional treatment units to accommodate hydraulic flow and/or pollutant load for the purpose of increasing the existing design capacity of the wastewater facility.

(14) "Fecal coliform" means the group of coliform bacteria which originate in the intestinal tract of warm-blooded animals.

(15) "Industrial wastewater" means the water or liquid carried from industrial or commercial processes as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade, or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. The term includes contaminated stormwater and also leachate from solid waste facilities.

(16) "Infiltration" means the addition of ground water into a sewer through joints, the sewer pipe material, cracks, and other defects.

(17) "Inflow" means the addition of rainfall-caused surface water drainage from roof drains, yard drains, basement drains, street catch basins, etc., into a sewer.

(18) "Interfere with" means a discharge by an industrial user which, alone or in conjunction with discharges by other sources, inhibits or disrupts the domestic wastewater facility, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the domestic wastewater facility's permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the domestic wastewater facility in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Federal Water Pollution Control Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D or the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

(19) "Permittee" means the entity to which the department issues a permit.

(20) "pH" means the negative logarithm of the hydrogen ion concentration.

(21) "Sanitary sewer" means a sewer which is designed to convey domestic wastewater and infiltration.

(22) "State" means the state of Washington.

(23) "Trickling filter" means a fixed growth biological treatment system in which wastewater is sprayed over the top surface of a column of rock or synthetic media. This definition does not include fixed growth biological systems which have a supplemental biological treatment system, other than a waste stabilization pond(s), for the principal wastewater stream.

(24) "TSS" means total suspended solids.

(25) "TSS concentrations achievable with waste stabilization ponds" means a TSS value, determined by the department, which is equal to the effluent concentrations achieved ninety percent of the time within the state or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality for BOD specified in WAC 173-221-050 (2)(a).

(26) "Waste stabilization pond" means basins built by excavating the ground and by diking for the purpose of treating wastewater under conditions that favor natural

biological treatment and accompanying bacterial reduction. This includes domestic wastewater facilities which are classified as stabilization ponds, or aerated lagoons per the department's Criteria for Sewage Works Design.

(27) "Wastewater facility" means all structures and equipment required to collect, transport, treat, reclaim, or dispose of domestic, industrial, or combined domestic/industrial wastewaters.

(28) "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, ground waters, salt waters, and all other waters and watercourses within the jurisdiction of the state of Washington.

(29) "Water quality standards" means the standards set forth in chapter 173-201 WAC.

(30) "Wet weather" means the time during and immediately following rainfall events which cause large quantities of inflow.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-030, filed 11/12/87.]

WAC 173-221-040 Domestic wastewater facility discharge standards. (1) Except as allowed under WAC 173-221-050, domestic wastewater facilities which discharge to surface waters shall not exceed a thirty-day average of 30 milligrams per liter (mg/L) BOD, 30 mg/L TSS. Seven-day averages shall not exceed 45 mg/L BOD, 45 mg/L TSS. Additionally, the thirty-day average percent removals of BOD and TSS shall not be less than eight-five percent of influent concentrations.

(2) Fecal coliform limits shall not exceed a monthly geometric mean of 200 organisms/100 milliliters (mL), and a weekly geometric mean of 400 organisms per 100 mL.

(3) The effluent pH value shall be between 6.0 and 9.0 standard units unless the permittee demonstrates that:

(a) Inorganic chemicals are not added to the waste stream as part of the treatment process; and

(b) Contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0; and

(c) The discharge does not cause water quality violations outside of an approved dilution zone.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-040, filed 11/12/87.]

WAC 173-221-050 Alternative domestic wastewater facility discharge standards and effluent limitations. (1) Alternative discharge standards for trickling filters which were constructed and/or expanded prior to November 1984 are:

(a) Up to a thirty-day average of 45 mg/L BOD, 45 mg/L TSS. Seven-day averages shall not exceed 65 mg/L BOD, 65 mg/L TSS. In addition, the thirty-day average percent removals of BOD and TSS shall not be less than sixty-five percent of influent concentrations;

(b) Notwithstanding (a) of this subsection, not any less stringent than "effluent concentrations consistently achievable through proper operation and maintenance" of the wastewater facility based on an analysis of the

past performance, the design, and the design capacity of the wastewater facility;

(c) Fecal coliform and pH discharge standards are as established in WAC 173-221-040.

(2) Alternative discharge standards for waste stabilization ponds which are the principal treatment process and which either have less than a two million gallon per day design capacity or have received, prior to the effective date of this regulation, the department's approval under chapter 173-240 WAC, for a greater design capacity, are:

(a) Up to a thirty-day average of 45 mg/L BOD, 45 mg/L TSS. Seven-day averages shall not exceed 65 mg/L BOD, 65 mg/L TSS. Additionally, the thirty-day average percent BOD removal shall not be less than sixty-five percent of influent concentrations.

(b) The discharge standards for TSS in (a) of this subsection may be adjusted by the department to conform to the "TSS concentrations achievable with waste stabilization ponds," provided that operation and maintenance data indicate that the TSS values specified in (a) of this subsection cannot be achieved.

(c) Notwithstanding (a) and (b) of this subsection, not any less stringent than "effluent concentrations consistently achievable through proper operation and maintenance" of the wastewater facility based upon an analysis of the past performance.

(d) Fecal coliform and pH discharge standards shall be as established in WAC 173-221-040.

(3) For domestic wastewater facilities which receive flows from combined sewers, the department shall decide on a case-by-case basis whether any attainable percent removal can be defined during wet weather. If it can be defined, the department will set an alternative percent removal effluent limitation for the wet weather period. A permittee who requests such alternative limits shall submit supporting documentation to the department.

(4)(a) For domestic wastewater facilities which receive less concentrated influent wastewater, permittees can request and submit supporting documentation for:

(i) A lower percent removal effluent limitation than the discharge standards set forth in WAC 173-221-040, or subsections (1) and (2) of this section; or

(ii) A mass loading limit based upon the lower percent removal.

(b) To qualify for alternative effluent limitations because of less concentrated influent wastewater, the permittee must demonstrate:

(i) The wastewater facility is consistently achieving, and/or will consistently achieve, the effluent concentration limits and mass limits based upon the effluent concentrations in its permit; and

(ii) That to meet the percentage removal requirements set forth in WAC 173-221-040 or subsections (1) and (2) of this section, the wastewater facility would have to achieve an effluent concentration at least 5 mg/L below the effluent concentration which is otherwise required; and

(iii) The less concentrated influent is not the result of excessive infiltration and/or inflow. The department will

use federal regulations and guidance in defining excessive infiltration and inflow; and

(iv) The development and implementation of a program, subject to the department's approval, for ongoing wastewater facility maintenance, repair, and replacement, including infiltration and inflow control. A goal of the program shall be eventual achievement of the percent removal requirements specified in WAC 173-221-040 and subsection (1) or (2) of this section, whichever is applicable. The department shall incorporate the approved infiltration and inflow control program into the permit for the wastewater facility.

(5) Subject to the department's approval, a request for alternative effluent limitations pursuant to subsections (1) through (4) of this section must meet all of the following conditions:

(a) The effluent shall not cause water quality violations; and

(b) The permittee shall identify effluent concentrations consistently achievable through proper operation and maintenance; and

(c) The permittee shall demonstrate that industrial wastewater does not interfere with the domestic wastewater facility; and

(d) The wastewater facility must be within department approved hydraulic and organic design capacity; and

(e) The permittee must complete an analysis of whether seasonal alternative effluent limits are more appropriate than year-round; and

(f) The wastewater facility must be able to meet all other permit requirements and conditions.

(6)(a) At the option of the department, in lieu of the parameter BOD and the levels of the BOD effluent quality specified in WAC 173-221-040, the parameter CBOD may be substituted as an effluent limitation with the following levels of the CBOD effluent quality provided: The thirty-day average shall not exceed 25 mg/L. The seven-day average shall not exceed 40 mg/L. Additionally, the thirty-day average percent removal shall not be less than eighty-five percent of the influent concentration.

(b) At the option of the department, in lieu of the parameter BOD and the levels of the BOD effluent quality specified in subsections (1) and (2) of this section, the parameter CBOD may be substituted as an effluent limitation on a case-by-case basis where data are available. The levels of CBOD effluent quality shall not be less stringent than the following: The thirty-day average shall not exceed 40 mg/L. The seven-day average shall not exceed 60 mg/L. The thirty-day average percent removal shall not be less than sixty-five percent of the influent concentration.

(c) Permittee applications for substitution of CBOD for BOD under (b) of this subsection shall include parallel CBOD and BOD data.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-050, filed 11/12/87.]

WAC 173-221-100 Severability. If any provision of this chapter or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.

[Statutory Authority: RCW 90.48.035 and 90.48.260. 87-23-020 (Order 87-26), § 173-221-100, filed 11/12/87.]

Chapter 173-222 WAC

WASTEWATER DISCHARGE PERMIT FEES

WAC

173-222-010	Purpose and authority.
173-222-015	Applicability.
173-222-020	Definitions.
173-222-030	Discharge categories.
173-222-040	Complexity factors.
173-222-050	Permit fees.
173-222-060	Permit fee payment.
173-222-070	Periodic review.
173-222-080	Public notice.
173-222-090	Public hearings.
173-222-100	Agency initiated modifications.
173-222-110	Appeals.

WAC 173-222-010 Purpose and authority. It is the purpose of this chapter to establish fees for permits issued by the department of ecology pursuant to RCW 90.48.160, 90.48.162, and 90.48.260. The collection of fees which reflects the administrative expenses incurred by the department of ecology in the processing of such permit applications is authorized by RCW 90.48.460. Fees are not annual operating fees but relate to the cost of application filing and processing.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-010, filed 3/4/86.]

WAC 173-222-015 Applicability. This chapter applies to all permit applications received by the department after July 28, 1985. This chapter does not apply to permits issued after June 30, 1988.

[Statutory Authority: Chapter 43.21A RCW. 88-12-035 (Order 88-8), § 173-222-015, filed 5/26/88, effective 7/1/88; 86-06-040 (Order 86-03), § 173-222-015, filed 3/4/86.]

WAC 173-222-020 Definitions. (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or authorized representative.

(3) "NPDES permit" means the National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the federal Clean Water Act and RCW 90.48.260.

(4) "Major facility" means any NPDES permitted facility or activity classified as such by the Region 10 administrator of the Environmental Protection Agency in conjunction with the director. This list is published annually as part of the state/EPA agreement.

(5) "Minor facility" means any NPDES permitted facility or activity not classified as a major facility.

(6) "Application fee" means that fee which must accompany the permit application.

(7) "Permit fee" means that fee charged for issuance, reissuance, or modification of a permit as defined by this chapter.

(8) "Permit issuance" means the issuance of a permit for a new source or to a source not previously permitted.

(9) "Permit reissuance" means the issuance of a permit for a currently permitted source.

(10) "Substantial modification" means the modification of a permit involving at least one complexity factor.

(11) "Administrative modification" means those revisions that do not involve a complexity factor such as, changes in reporting schedules, compliance schedules, and monitoring schedules.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "Permitted flow" means the daily average flow limitation contained in the permit; where a flow limit is not specified, design flow of the facility will be used.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-020, filed 3/4/86.]

WAC 173-222-030 Discharge categories. For the purpose of this chapter, discharges are classified according to the following categories:

(1) Category 1A is for major domestic NPDES permitted facilities with a permitted flow greater than fifteen million gallons per day.

(2) Category 1B is for major domestic NPDES permitted facilities with a permitted flow between one million and fifteen million gallons per day.

(3) Category 1C is for minor domestic NPDES permitted facilities with a permitted flow of less than one million gallons per day.

(4) Category 1D is for all domestic state waste discharge permitted facilities with a discharge to ground water.

(5) Category 2A is for major industrial NPDES permitted facilities.

(6) Category 2B is for minor industrial NPDES permitted facilities and all state waste discharge permitted facilities, requiring biological and/or chemical treatment.

(7) Category 2C is for minor industrial NPDES permitted facilities and all state waste discharge permitted facilities, *not* requiring biological or chemical treatment with a permitted flow greater than or equal to 0.5 million gallons per day.

(8) Category 2D is for minor industrial NPDES permitted facilities and all state waste discharge permitted facilities *not* requiring biological or chemical treatment, with a permitted flow less than 0.5 million gallons per day, and/or with an intermittent discharge.

(9) Category 3A is for area-wide, general NPDES permits.

(10) Category 3B is for coverage by a general NPDES permit, not included in Category 3A.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-030, filed 3/4/86.]

WAC 173-222-040 Complexity factors. (1) There are a number of factors that may be a component of

some permit applications; processing such applications can take substantially increased staff time. For the purpose of this chapter, these factors are identified as follows:

- (a) Combined sanitary and storm sewers.
- (b) Local industrial wastewater pretreatment program.
- (c) Excessive inflow and/or infiltration problems.
- (d) Receiving water quality considerations.
- (e) Ground water monitoring.
- (f) Solid waste management including sludge management.
- (g) Level of treatment including: (i) Facility upgrade, (ii) system design capacity, (iii) seasonal variations in loading.
- (h) Major change or variation in process or production.
- (i) Toxics monitoring, including biomonitoring.
- (j) Permit involving multiple industrial categories or subcategories.
- (k) Fundamentally different factors analysis pursuant to 40 CFR 125.30.
- (l) Best professional judgment (BPJ) analysis including those pursuant to 40 CFR 125.3.

(m) Request for a nonconventional pollutant variance pursuant to Section 301(g) of the federal Clean Water Act.

(n) Request for a thermal variance pursuant to Section 316(a) of the federal Clean Water Act.

(2) For the purpose of this chapter, factors (a) through (j) of subsection (1) of this section each shall count as one complexity factor and factors (k) through (n) of subsection (1) of this section each shall count as two complexity factors. Each applies only when the department is required to expend a substantial amount of time in addressing that factor during the processing of a permit application.

(3) Any work done by the applicant to minimize the expenditure of staff time by the department shall be considered in determining the permit fee.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-040, filed 3/4/86.]

WAC 173-222-050 Permit fees. (1) Application fee: \$100 (nonrefundable).

(2) Permit fee:

(a) Permit fee schedule

Departmental Action	Discharge Categories							
	Domestic				Industrial			
	1A	1B	1C	1D	2A	2B	2C	2D
Permit Issuance								
0 Complexity Factors	\$ 2,252	\$1,468	\$1,216	\$1,300	\$ 2,336	\$1,468	\$1,216	\$ 740
1 Complexity Factor	4,044	2,476	1,972	2,140	4,212	2,476	1,972	1,020
2 Complexity Factors	5,836	3,484	2,700	2,980	6,060	3,484	2,700	1,300
3 Complexity Factors	7,628	4,492	3,484	3,820	7,964	4,492	3,484	1,580
4 Complexity Factors	9,420	5,500	4,240	4,660	9,840	5,500	4,240	1,860
5 Complexity Factors	11,212	6,508	4,996	5,500	11,716	6,508	4,996	2,140
6 Complexity Factors	13,004	7,516	5,752	6,340	13,592	7,516	5,752	2,420
Permit Reissuance								
0 Complexity Factors	1,720	1,104	1,020	1,048	1,636	1,104	1,020	656
1 Complexity Factor	2,980	1,748	1,580	1,636	2,812	1,748	1,580	852
2 Complexity Factors	4,240	2,364	2,140	2,224	3,988	2,364	2,140	1,020
3 Complexity Factors	5,500	3,036	2,700	2,812	5,164	3,036	2,700	1,244
4 Complexity Factors	6,760	3,680	3,260	3,400	6,340	3,680	3,260	1,440
5 Complexity Factors	8,020	4,324	3,820	3,988	7,516	4,324	3,820	1,636
6 Complexity Factors	9,280	4,968	4,380	4,576	8,692	4,968	4,380	1,832
Substantial Modification								
1 Complexity Factor	1,720	1,104	1,020	1,048	1,636	1,104	1,020	656
2 Complexity Factors	2,980	1,748	1,580	1,636	2,812	1,748	1,580	852
3 Complexity Factors	4,240	2,364	2,140	2,224	3,988	2,364	2,140	1,020
4 Complexity Factors	5,500	3,036	2,700	2,812	5,164	3,036	2,700	1,244
Administrative Modifications	460	460	460	460	460	460	460	460

(b) The number of complexity factors that may be charged for any given permit is limited to four, regardless of the total number of complexity factors involved, except that a facility with multiple discharge points may be charged for up to six complexity factors. Where multiple discharge points exist, complexity factors uniquely applicable to each discharge point will be charged.

(c) General permits.

(i) Area-wide (Category 3A) permit fees will be based on an accounting of actual costs incurred by the department.

(ii) Requests for coverage by general permit (Category 3B): \$100 (nonrefundable).

(d) The fees identified in this section are based on averages of the total actual costs incurred by the department in processing each type of permit application. Total actual costs include salaries, benefits, indirect costs, and clerical costs.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-050, filed 3/4/86.]

WAC 173-222-060 Permit fee payment. (1) The application fee must accompany the permit application. If the application fee does not accompany the permit application, the application will be returned as incomplete.

(2) Request for coverage by a general permit must be accompanied by the fee. If the application fee does not accompany the permit application, the application will be returned as incomplete.

(3) The department will inform the applicant of applicable permit fees at least thirty days prior to permit action.

(4) The appropriate permit fee must be received by the department within sixty days of notification. Failure to pay the applicable permit fees will result in termination of any continuation of an expired permit pursuant to WAC 173-220-180(5), or of a temporary permit pursuant to RCW 90.48.200.

(5) For permits issued prior to the effective date of this chapter, to which WAC 173-222-015 applies, fees must be received by the department within one hundred eighty days of notification by the department. Failure to make payment will result in immediate action pursuant to chapter 90.48 RCW and chapters 173-216 and 173-220 WAC.

(6) The applicable permit fee shall be paid by check or money order payable to the "department of ecology." Municipalities may use purchase orders.

(7) When payment is made by check which is subsequently returned due to insufficient funds, the department will take appropriate action pursuant to chapter 90.48 RCW.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-060, filed 3/4/86.]

WAC 173-222-070 Periodic review. The department shall review biennially the data used to establish the fee schedule to determine if fees need to be adjusted.

[Title 173 WAC—p 280]

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-070, filed 3/4/86.]

WAC 173-222-080 Public notice. It will continue to be the responsibility of the permit applicant to comply with all applicable public notice requirements pursuant to chapters 173-216 and 173-220 WAC.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-080, filed 3/4/86.]

WAC 173-222-090 Public hearings. Public hearings required as the result of a permit application will be conducted by the department at no additional cost to the applicant.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-090, filed 3/4/86.]

WAC 173-222-100 Agency initiated modifications. There will be no charge to the permittee for modifications initiated by the department.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-100, filed 3/4/86.]

WAC 173-222-110 Appeals. Any person aggrieved by a determination made by the department under this chapter may appeal to the pollution control hearings board pursuant to chapter 43.21B RCW and the procedure adopted at chapter 371-08 WAC.

[Statutory Authority: Chapter 43.21A RCW. 86-06-040 (Order 86-03), § 173-222-110, filed 3/4/86.]

Chapter 173-224 WAC

WASTEWATER DISCHARGE PERMIT FEES

WAC

173-224-015	Purpose.
173-224-020	Applicability.
173-224-030	Definitions.
173-224-040	Permit fee schedule.
173-224-050	Permit fee payments.
173-224-060	Permits issued by other governmental agencies.
173-224-070	Credits.
173-224-080	Transfer of ownership or control.
173-224-090	Small discharger fee reduction.
173-224-100	Administrative appeals to the department.
173-224-110	Deposits.
173-224-120	Past due payments.

WAC 173-224-015 Purpose. The purpose of this chapter is to establish a fee system for state waste discharge and NPDES permits issued by the department pursuant to RCW 90.48.160, 90.48.162, or 90.48.260. Initiative 97 authorizes the department to charge fees to fully recover, but not exceed the costs of the permit program based on expenses incurred in the issuance and administration of state waste discharge and NPDES permits. This regulation is a step towards developing a comprehensive permit program. The department will further document the program needs and costs, and re-examine the fees established within this chapter, and as appropriate, will propose changes to the fee schedule to fully recover the 1992-93 biennium program costs.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-015, filed 5/31/89.]

WAC 173-224-020 Applicability. This chapter applies to all persons holding a state waste discharge or NPDES permit issued by the department pursuant to RCW 90.48.160, 90.48.162 or 90.48.260, including persons holding permits that remain in effect under WAC 173-216-040, 173-220-180(5), or RCW 90.48.200.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-020, filed 5/31/89.]

WAC 173-224-030 Definitions. (1) "Administrative expenses" means those costs associated with issuing and administering permits under RCW 90.48.160, 90.48.162, and 90.48.260. Fees for hazardous waste clean up sites may be adjusted retrospectively based on cost accounting for such sites as provided for under the provisions of Initiative 97.

(2) "Aggregate production" means the mining of sand, gravel, or rock and/or the production of concrete and/or asphalt.

(3) "Aluminum and magnesium reduction mills" means the electrolytic reduction of alumina or magnesium salts to produce aluminum or magnesium metal.

(4) "Animal unit" means one slaughter or feeder steer, 0.7 mature dairy cow, 25 swine or as more fully defined in Appendix B of 40 CFR 122.

(5) "Annual permit fee" means the fee charged by the department of ecology for expenses associated with activities specified in Initiative 97. This annual fee is based on the state's fiscal year (July 1 - June 30).

(6) "bbls/d" means barrels per day of feedstock for petroleum refineries.

(7) "bins/yr" means total standard bins used during the last complete calendar year by a facility in the crop preparing industry. The bins measure approximately 47.5 inches x 47.4 inches x 29.5 inches and hold approximately 870 pounds of fruit.

(8) "Combined food processing waste treatment facility" means a facility which treats wastewater from more than one separately permitted food processor and receives no waste from industrial sources other than food processing and no domestic wastewater.

(9) "Combined industrial waste treatment" means a facility which treats wastewater from more than one industry in any of the following categories: Inorganic chemicals, metal finishing, ore concentration, organic chemicals, or photofinishers.

(10) "Combined sewer overflow (CSO)" means the event during which excess combined sewage flow caused by inflow is discharged from a combined sewer, rather than conveyed to the sewage treatment plant because either the capacity of the treatment plant or the combined sewer is exceeded.

(11) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3) as presently enacted and any subsequent modifications thereto.

(12) "Crop preparing" means the preparation of fruit for wholesale or retail sale by washing and/or other

processes in which the skin of the fruit is not broken and in which the interior part of the fruit does not come in director contact with the wastewater.

(13) "cu. yds/yr" means the total production from an aggregate production facility in cubic yards during the most recent completed calendar year.

(14) "Department" means the department of ecology.

(15) "Director" means the director of the department of ecology.

(16) "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.

(17) "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.

(18) "EPA" means the United States Environmental Protection Agency.

(19) "Fin fish rearing and hatching" means the raising of fin fish for fisheries enhancement or sale, by means of hatcheries, net pens, or other confined fish facilities.

(20) "Flavor extraction" means the recovery of flavors or essential oils from vegetable products.

(21) "Food processing" means the preparation of food for human or animal consumption or the preparation of animal byproducts, but exclusive of crop preparing. This category includes but is not limited to fruit and vegetable processing, meat and poultry products processing, dairy products processing, seafood processing, beer and wine production, rendering and animal feed production. Food processing wastewater treatment plants which treat wastes from only one separately permitted food processor shall be treated as one facility for billing purposes.

(22) "GPD" means maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit.

(23) "Gross revenue" means gross receipts from monthly, bimonthly, and/or quarterly user charges for sewer services received from all classes of customers;

Included in these user charges are user charges and fees based on wastewater constituents' strengths and characteristics including high-strength surcharges and charges based on biochemical oxygen demand, suspended solids, oil and grease, toxicants, heavy metals, and flow, etc.

Gross revenue includes charges for receipt and treatment of septic tank wastes, holding tank wastes, chemical toilet wastes, etc.

Gross revenue includes all amounts received from other municipalities for sewage interception, treatment, collection, or disposal.

Gross revenue excludes:

(a) Amounts derived by municipalities directly from taxes levied for the support or maintenance of sewer services.

(b) Late charges, penalties for nontimely payment by customers, interest on late payments, and all other penalties and fines.

(c) Permit fees and compliance monitoring fees for wastewater discharge permits issued by municipalities with local pretreatment programs. Permit fees which are charged to cover the cost of providing sewer service are not excluded from gross revenue.

(d) Receipts by a municipality of special assessments or installments thereof and interests and penalties thereon, and charges in lieu of assessments.

(e) Connection charges.

(f) Revenues from sales of by-products such as sludge, processed wastewater, etc.

(24) "Hazardous waste clean up sites" means hazardous waste sites which have a waste discharge permit but at which the department has not commenced cost recovery under section 4 of Initiative 97.

(25) "Industrial facility" means any facility not included in definition of municipal/domestic facility.

(26) "MGD" means permitted flow expressed in million gallons per day.

(27) "Metal finishing" means the preparation of metal surfaces by means of electroplating, electroless plating, anodizing, coating (chromating, phosphating and coloring), chemical etching and milling, and printed circuit board manufacture.

(28) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastewater together with such industrial wastes as may be present, or a privately-owned facility treating solely domestic wastewater.

(29) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 U.S.C. Sec. 1288. State government agencies are not included in this definition.

(30) "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product, and which does not contain chemicals added by the permittee. The noncontact cooling water fee category applies to those facilities which discharge only noncontact cooling water and which have no other wastewater discharges required to be permitted under RCW 90.48.160, 90.48.162, and 90.48.260.

(31) "Nonferrous metals forming" means the manufacturing of semifinished products from pure metal or metal alloys other than iron or steel or of metals not otherwise classified in WAC 173-224-040(1).

(32) "NPDES permit" means a National Pollutant Discharge Elimination System permit issued by the department pursuant to Section 402 of the federal Clean Water Act and RCW 90.48.260.

(33) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or any other entity whatever.

(34) "Permitted flow" means:

(a) For municipal/domestic facilities, the monthly average flow limitation contained in the permit;

(b) For industrial facilities, the daily maximum flow limitation contained in the permit;

(c) For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection.

(35) "Residential equivalent" means a single-family residence or a unit of sewer service that yields an amount of gross revenue equal to the annual user charge for a single-family residence. In cases where the permit holder does not maintain data on gross revenue, user charges, and/or the number of single-family residences that it serves, "residential equivalent" means an influent flow of two hundred fifty gallons per day.

(36) "Sewer service" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point, or points, for disposal or for transfer to treatment for disposal, and activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities.

(37) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-030, filed 5/31/89.]

WAC 173-224-040 Permit fee schedule. (1) Industrial facility categories.

(2) Municipal/domestic categories.

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Aluminum Alloys	\$ 5,000.00
Aluminum and Magnesium Reduction Mills	30,000.00
Aluminum Forming	15,000.00
Aggregate Production	
a. Mineral Mining (Sand, Gravel and Rock)	
1. Mining only	500.00
2. Mining with classification (screening and/or crushing)	1,000.00
3. Mining with classification and washing	1,500.00
b. Concrete and/or Asphalt Production	
1. < 20,000 cu. yds/yr.	300.00
2. 20,000 - < 60,000 cu. yds/yr.	500.00
3. 60,000 - < 100,000 cu. yds/yr.	750.00
4. 100,000 - < 150,000 cu. yds/yr.	1,000.00
5. 150,000 - < 200,000 cu. yds/yr.	1,500.00
6. 200,000 - < 250,000 cu. yds/yr.	2,000.00
7. 250,000 cu. yds/yr. and greater	2,500.00
Coal Mining and Preparation	
a. < 200,000 tons per year	2,000.00
b. 200,000 - < 500,000 tons per year	4,500.00
c. 500,000 - < 1,000,000 tons per year	8,000.00
d. 1,000,000 tons per year and greater	15,000.00
Combined Industrial Waste Treatment	
a. < 10,000 gpd	1,000.00
b. 10,000 - < 50,000 gpd	2,500.00
c. 50,000 - < 100,000 gpd	5,000.00
d. 100,000 - < 500,000 gpd	10,000.00
e. 500,000 gpd and greater	15,000.00
Combined Food Processing Waste Treatment Facilities	5,000.00

The fee for a facility in the aggregate production category is the sum of the applicable fees in the mineral mining and the concrete and/or asphalt production subcategories.

Wastewater Discharge Permit Fees

173-224-040

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE	INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Combined Sewer Overflow System		e. 100,000 - < 1,000,000 gpd	4,000.00
a. < 50 acres	1,000.00	f. 1,000,000 - < 10,000,000 gpd	6,000.00
b. 50 - < 100 acres	2,000.00	g. 10,000,000 gpd and greater	8,000.00
c. 100 - < 500 acres	3,000.00	Nonferrous Metals Forming	5,000.00
d. 500 acres and greater	4,000.00	Ore Mining	
Concentrated Animal Feeding Operation		a. Ore mining	1,000.00
a. < 100 Animal Units	100.00	b. Ore mining with physical concentration processes	2,000.00
b. 100 - < 500 Animal Units	200.00	c. Ore mining with physical and chemical concentration processes	8,000.00
c. 500 - < 1,000 Animal Units	500.00	Organic Chemicals Manufacturing	
d. 1,000 Animal Units and greater	1,000.00	a. Fertilizer	5,000.00
Crop Preparing		b. Aliphatic	10,000.00
a. 1,000 - < 5,000 bins/yr.	200.00	c. Aromatic	15,000.00
b. 5,000 - < 10,000 bins/yr.	400.00	Petroleum Refining	
c. 10,000 - < 25,000 bins/yr.	800.00	a. < 10,000 bbls/d	10,000.00
d. 25,000 - < 50,000 bins/yr.	1,600.00	b. 10,000 - < 50,000 bbls/d	20,000.00
e. 50,000 - < 100,000 bins/yr.	3,000.00	c. 50,000 bbls/d and greater	40,000.00
f. 100,000 - < 150,000 bins/yr.	5,000.00	Photofinishers	
g. 150,000 bins/yr. and greater	6,000.00	a. < 1,000 gpd	400.00
Facilities Not Otherwise Classified		b. 1,000 gpd and greater	1,000.00
a. < 1,000 gpd	500.00	Power and/or Steam Plants	
b. 1,000 - < 10,000 gpd	1,000.00	a. Steam Generation - Nonelectric	2,000.00
c. 10,000 - < 50,000 gpd	2,000.00	b. Hydroelectric	2,000.00
d. 50,000 - < 100,000 gpd	4,000.00	c. Nonfossil Fuel	3,000.00
e. 100,000 - < 500,000 gpd	8,000.00	d. Fossil Fuel	8,000.00
f. 500,000 - < 1,000,000 gpd	10,000.00	Pulp, Paper and Paper Board	
g. 1,000,000 gpd and greater	15,000.00	a. Fiber Recyclers	5,000.00
Fin Fish Rearing & Hatching	1,500.00	b. Paper Mills	10,000.00
Flavor Extraction		c. Groundwood Pulp Mills	
a. Steam Distillation	250.00	1. < 300 tons per day	15,000.00
b. Solvent Extraction	1,000.00	2. 300 tons per day and greater	30,000.00
Food Processing		d. Chemical Pulp Mills w/o Chlorine Bleaching	40,000.00
a. < 1,000 gpd	500.00	e. Chemical Pulp Mills w/Chlorine Bleaching	45,000.00
b. 1,000 - < 10,000 gpd	1,000.00	Shipyards	
c. 10,000 - < 50,000 gpd	1,500.00	\$1,000 per crane, travel lift, small boat lift	
d. 50,000 - < 100,000 gpd	2,000.00	1,000 per drydock under 250 ft in length	
e. 100,000 - < 500,000 gpd	5,000.00	1,000 per graving dock	
f. 500,000 - < 1,000,000 gpd	10,000.00	1,500 per marine way	
g. 1,000,000 gpd and greater	15,000.00	1,500 per synchrolift	
Fuel and Chemical Storage		2,000 per drydock over 250 ft in length	
a. < 100,000 bbls	1,000.00	The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.	
b. 100,000 - < 500,000 bbls	2,500.00	Solid Waste Sites	
c. 500,000 bbls and greater	5,000.00	a. Nonputrescible	2,000.00
Hazardous Waste Clean Up Sites	20,000.00	b. < 50 acres	4,000.00
(See definition under WAC 173-224-030(24).)		c. 50 - < 100 acres	8,000.00
Inorganic Chemicals Manufacturing		d. 100 - < 250 acres	10,000.00
a. Lime Products	2,500.00	e. 250 acres and greater	15,000.00
b. Fertilizer		Storm Water Only	
c. Peroxide	4,000.00	a. < 50 acres	1,000.00
d. Alkaline Earth Salts	5,000.00	b. 50 - < 100 acres	2,000.00
e. Metal Salts	7,000.00	c. 100 - < 500 acres	3,000.00
f. Acid Manufacturing	10,000.00	d. 500 acres and greater	4,000.00
g. Chlor-alkali	20,000.00	Textile Mills	20,000.00
Iron and Steel		Timber Products	
a. Foundries	5,000.00	a. Log Storage	1,000.00
b. Mills	10,000.00	b. Veneer	2,000.00
Metal Finishing		c. Sawmills	4,000.00
a. < 1,000 gpd	600.00	d. Hardwood, Plywood	7,000.00
b. 1,000 - < 10,000 gpd	1,000.00	e. Wood Preserving	10,000.00
c. 10,000 - < 50,000 gpd	2,500.00	Vehicle Maintenance, Warehouse and Freight Transfer	
d. 50,000 - < 100,000 gpd	5,000.00	a. < 0.5 acre	1,000.00
e. 100,000 - < 500,000 gpd	10,000.00	b. 0.5 - < 1.0 acre	2,000.00
f. 500,000 gpd and greater	15,000.00	c. 1.0 acre and greater	3,000.00
Noncontact Cooling Water			
a. < 1,000 gpd	100.00		
b. 1,000 - < 10,000 gpd	500.00		
c. 10,000 - < 50,000 gpd	1,000.00		
d. 50,000 - < 100,000 gpd	2,000.00		

INDUSTRIAL FACILITY CATEGORIES	ANNUAL PERMIT FEE
Water Plants	
a. Potable water treatment	1,250.00
b. Irrigation water treatment	750.00

(a) Facilities other than those in the aggregate production, crop preparing, or shipyard categories which operate within several fee categories or subcategories will be charged for that category or subcategory with the highest fee.

(b) Facilities covered by general permits will be charged 70% of the fee category which they would otherwise belong.

(c) Industries with permitted discharges of 800 gpd or less will pay an annual fee of \$150.00.

(d) The annual permit fee for a water treatment plant that primarily serves residential customers may not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

(e) To verify information relevant to the determination of fees, the department may require industrial and commercial permittees to submit a form certifying annual production or unit processes. When required, the form must be completed and returned to the department within thirty days after it is mailed to the permittee by the department.

(f) Fees for crop preparers discharging noncontact cooling water only shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water categories.

(g) Hazardous waste clean up sites for which the department has commenced cost recovery under section 4 of Initiative 97 shall have permit fees deemed to have been charged through the cost recovery action.

(3) The form shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

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

(4) The department may verify the information contained in the form and, if it determines that the permit holder has made false or inaccurate statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

MUNICIPAL/DOMESTIC FACILITIES

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

(i) If the number of residential equivalents that contribute to the domestic wastewater facility is less than

40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the domestic wastewater facility is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the domestic wastewater facility is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the domestic wastewater facility is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the domestic wastewater facility is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities and which treats each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made, is determined as follows:

(i) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is less than 40,000, the fee is sixty cents times the number of residential equivalents;

(ii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 40,000 or greater but less than 150,000, the fee is fifty cents times the number of residential equivalents;

(iii) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 150,000 or greater but less than 250,000, the fee is forty cents times the number of residential equivalents;

(iv) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 250,000 or greater but less than 500,000, the fee is thirty-five cents times the number of residential equivalents;

(v) If the number of residential equivalents that contribute to the municipality's domestic wastewater system is 500,000 or greater, the fee is thirty cents times the number of residential equivalents.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

<u>Permitted Flows</u>	<u>Annual Permit Fee</u>
.1 MGD and Greater	\$2,500.00
.05 MGD to < .1 MGD	1,000.00
.0008 MGD to < .05 MGD	500.00
< .0008 MGD	150.00

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if the facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other

municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must be taken from

the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(v) If the facility received a permit fee reduction in accordance with WAC 173-223-090(3) for its fiscal year 1989 permit fee, the facility may use the residential equivalent count that was made in determining that fee reduction as the number of residential equivalents for calculating its fiscal year 1990 and 1991 permit fees.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor;

(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(iv) Residential equivalent counts calculated for the purpose of determining fees under chapter 173-223 WAC for the March 1 through June 30, 1989, period will be used to determine permit fees for fiscal years 1990 and 1991.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-040, filed 5/31/89.]

WAC 173-224-050 Permit fee payments. (1) Permit fee computation. Computation of permit fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48.200, computation shall begin on the sixty-first day after the department receives an application. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of

a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge permit fees based on the permit fee schedule contained in WAC 173-224-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Permit fees must be received by the department thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis. In cases where a new permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Wastewater Discharge Permit Fee Program, P. O. Box 5128, Lacey, Washington 98503-5128.

(4) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-050, filed 5/31/89.]

WAC 173-224-060 Permits issued by other governmental agencies. The department shall not charge permit fees for:

(1) Permits issued by a city, town, or municipal corporation under RCW 90.48.165;

(2) Permits issued by the energy facilities site evaluation council under RCW 80.50.071;

(3) Permits administered by the EPA under 33 U.S.C. 1251 et seq.

Nothing herein shall restrict the department from charging fees to recover administrative expenses of permits it issues under RCW 90.48.160 for discharges into municipal sewer systems, nor for charging fees to recover administrative expenses related to monitoring compliance with delegated pretreatment programs.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-060, filed 5/31/89.]

WAC 173-224-070 Credits. Any public entity engaging in a comprehensive monitoring program may apply for a credit against its permit fee. The full amount of a permit fee shall not be due until after the department made a determination on any such application for credit. The department may establish a due date in accordance with WAC 173-224-050 for an amount equal to the permit fee assessment minus the requested credit. Any balance of permit fee charges remaining after approval or denial of a credit shall be due thirty days after the department gives notice of such approval or denial. The department may approve applications for credits that meet the following criteria:

(1) Credit shall not be granted to a facility in excess of twenty-five percent of the permit fee assessed over the five-year period of a permit;

(2) The total amount of combined credits granted to all permittees for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars. The total amount of credits granted for any one year shall not exceed the balance of the fifty thousand dollar maximum divided by the number of years remaining before July 1, 1993. If more than one permittee applies for credits during any one calendar year, the department shall consider the amount of the credits applied for and the benefits derived from the comprehensive monitoring programs in distributing the credits for that year among the applicants;

(3) Credit shall not be granted for monitoring required by the terms of the applicant's permit; nor for monitoring of effluent or the effects of effluent on the receiving water, sediment, or biota in the vicinity of the discharge; nor for monitoring that is within the scope of monitoring guidelines developed by the department for implementation through permits;

(4) In applying for an NPDES permit credit, the applicant must demonstrate that its comprehensive monitoring produces benefits the general public or public agencies responsible for protection or management of the state's waters or aquatic resources. Such benefits must extend beyond the immediate jurisdiction or responsibility of the applicant;

(5) Requests for credit must be received by the department no later than October 1 during any state fiscal year.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-070, filed 5/31/89.]

WAC 173-224-080 Transfer of ownership or control. The department shall charge permit fees from the permit holder on record with the department. In the event that ownership or control of a permitted facility or activity is transferred, it shall not be the responsibility of the department to transfer funds between a new and previous permit holder, and the department shall not refund fee charges prospectively in the event of a transfer. Fees paid by a previous permit holder shall be deemed to satisfy the corresponding fee payment requirements of a new permit holder. Agreements between a new and previous permit holder are not binding on the department.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-080, filed 5/31/89.]

WAC 173-224-090 Small discharger fee reduction. A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have fifty or fewer employees; and

(d) Have annual sales of five hundred thousand dollars or less of the goods or services produced using the processes regulated by the waste discharge permit.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner;

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

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to the greater of: (a) Fifty percent of the permit fee; or (b) two hundred fifty dollars.

(5) If due to special economic circumstances a fee reduction allowed under subsection (4) of this section would nevertheless still impose an extreme economic hardship on a small business, the small business may so indicate in its application for fee reduction and request a further fee reduction. The small business must provide sufficient evidence to support its claim of extreme hardship. The factors which the department may consider in determining whether the applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales, the size of its labor force, the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers, and its average annual profits. In no case will a permit fee be reduced below one percent of the average annual gross sales of the goods or services produced using the process regulated by the waste discharge permit. The average annual gross sales is calculated using the previous three calendar years' gross sales.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-090, filed 5/31/89.]

WAC 173-224-100 Administrative appeals to the department. Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the department no later than the due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of Initiative 97, and specific actions that he/she is requesting that are consistent with those requirements. The department shall either issue a revised determination or a statement upholding the original determination.

A revised determination shall be consistent with the requirements of Initiative 97.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-100, filed 5/31/89.]

WAC 173-224-110 Deposits. The department shall deposit permit fee payments in the water quality permit account in the state treasury. Funds collected shall not be available for use by the department until appropriated by the legislature.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-110, filed 5/31/89.]

WAC 173-224-120 Past due payments. Any person who, by the effective date of this section, has not paid the fees and other amounts due under chapters 173-222 and 173-223 WAC shall continue to be obligated to pay such fees and amounts.

[Statutory Authority: Chapter 43.21A RCW. 89-12-027 (Order 89-8), § 173-224-120, filed 5/31/89.]

Chapter 173-225 WAC

FEDERAL WATER POLLUTION CONTROL ACT-- ESTABLISHMENT OF IMPLEMENTATION PROCEDURES OF APPLICATION FOR CERTIFICATION

WAC

- 173-225-010 Introduction.
- 173-225-020 Purpose.
- 173-225-030 Public notice and public hearings.

WAC 173-225-010 Introduction. Section 401 of the Federal Water Pollution Control Act (FWPCA) provides that applicants for a license or permit from the federal government relating to any activity which may result in any discharge into the navigable waters shall obtain a certification from the state in which the discharge originates, or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 of the FWPCA. The department of ecology, under chapter 90.48 RCW, has been designated as the state water pollution control agency for all purposes of the FWPCA, and is authorized to participate fully in the programs of that act as well as to take all action necessary to meet the requirements thereof.

[Order 73-29, § 173-225-010, filed 11/15/73.]

WAC 173-225-020 Purpose. The purpose of this regulation is to establish procedures for public notice and public hearings in relation to the processing of applications for certification required by section 401 of the FWPCA.

[Order 73-29, § 173-225-020, filed 11/15/73.]

WAC 173-225-030 Public notice and public hearings. Whenever an application for certification required by section 401 of FWPCA is filed with the department

[Title 173 WAC—p 288]

of ecology, the following procedures pertaining to public notice and public hearings shall apply:

(1) Public notice of an application shall be performed in relation to all applications, as follows:

(a) By mailing notice of the application for certification to persons and organizations who have requested the same and to all others deemed appropriate; and

(b) When determined by the department as desirable in the public interest, by publication of a notice twice, once each on the same day of the week in two consecutive weeks, in a newspaper of general circulation in the county in which the activity described in the application is located, and in such other counties as are deemed appropriate by the department. The applicant for a certification shall be required to cause such notice to be published in a form approved by the department and the applicant shall bear the cost of such publication and provide an affidavit of publication to the department.

(2) Any person desiring to present views on the application in relation to water pollution control considerations shall do so by providing the same in writing to the regional office of the department of ecology identified in the notice of application within 20 days after notice of the application was last published or such longer period of time as the director may determine, or, in the case where notice is provided only by WAC 173-225-030 (1)(a), within the time period stated in said notice.

(3) If the department determines there is sufficient public interest in any application, a public hearing for the submission of oral views as well as written views shall be held. When this determination is made before notice of application is performed, such notice shall set forth the time and place of the hearing; otherwise, a separate notice of public hearing shall be made and such notice shall be distributed and published in the manner provided in WAC 173-225-030(1). Whenever a public hearing is to be held, the requirement of WAC 173-225-030(2) above in relation to the timing of submitting written views shall not apply, but the deadline for submitting written views shall be set forth in the notice announcing the hearing.

[Order DE 75-6, § 173-225-030, filed 3/7/75; Order 73-29, § 173-225-030, filed 11/15/73.]

Chapter 173-230 WAC

CERTIFICATION OF OPERATORS OF WASTEWATER TREATMENT PLANTS

WAC

- 173-230-010 General.
- 173-230-020 Definitions.
- 173-230-030 Duties of the board.
- 173-230-040 Certification required.
- 173-230-050 Certification prerequisites.
- 173-230-061 Applications and certification requirements.
- 173-230-070 Examination.
- 173-230-080 Certificate term and renewals.
- 173-230-090 Fees.
- 173-230-100 Suspension and revocation.
- 173-230-110 Reciprocity.
- 173-230-120 Appeals.
- 173-230-130 Violations.
- 173-230-140 Classification of wastewater treatment plants.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-230-060 Applications. [Order 73-30, § 173-230-060, filed 11/9/73.] Repealed by 82-09-056 (Order DE 82-07), filed 4/16/82. Statutory Authority: Chapter 70.95B RCW.

WAC 173-230-010 General. One of the basic requirements of the Wastewater Treatment Plant Operator Certification Act of 1973 (chapter 139, Laws of 1973) (chapter 70.95B RCW) is to have every operator in responsible charge of a wastewater treatment plant certified at a level equal to or higher than the classification rating of the treatment plant being operated. Certification under this act is available to all individuals who can meet the minimum qualifications for a given classification. Operating personnel not required to be certified by chapter 70.95B RCW are encouraged to become certified on a voluntary basis.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-010, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-010, filed 4/16/82. Statutory Authority: RCW 70.95B.040. 78-11-016 (Order DE 78-16), § 173-230-010, filed 10/11/78; Order 73-30, § 173-230-010, filed 11/9/73.]

WAC 173-230-020 Definitions. (1) "Board" means the water and wastewater operators certification board of examiners established by RCW 70.95B.070.

(2) "Certificate" means the certificate of competency issued by the director stating that an individual has met the requirements for a specific classification in the wastewater treatment plant operator's certification program.

(3) "Certificate holder" means the individual to whom a certificate is issued.

(4) "CEU" means continuing education unit which is a nationally recognized unit of measurement similar to college credit. One CEU is awarded for every ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

(5) "College" means credits earned toward a college degree or in course work that is relevant to the operation of a wastewater treatment plant. College shall also mean CEUs. Forty-five CEUs equals forty-five quarter credits equals thirty semester credits.

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

(7) "Director" means the director of the department of ecology or the director's designee.

(8) "GED" means a General Education Development certificate issued by a recognized education institution. A GED is equivalent to a high school diploma.

(9) "Group and class" for the purpose of operator certification and wastewater treatment plant classification shall mean the same.

(10) "OIT" means operator-in-training. This is the entry level certification classification offered by the department.

(11) "Operating experience" means the routine performance of duties, on-site in a wastewater treatment

plant, that affect plant performance and/or effluent quality.

(12) "Operator" means an individual who performs routine duties on-site at a wastewater treatment plant which affect plant performance and/or effluent quality.

(13) "Operator in charge of each shift" means the individual on-site at a wastewater treatment plant whose primary responsibility is to operate the wastewater treatment plant on a regularly run shift. The operator in charge of each shift shall be subordinate to the operator in responsible charge.

(14) "Operator in responsible charge" means the individual who is routinely on-site and in direct charge of the overall operation of a wastewater treatment plant.

(15) "Owner" means in the case of a town or city, the city or town acting through its chief executive officer or the lessee if operated pursuant to a lease or contract; in the case of a county, the chairman of the county legislative authority or the chairman's designee; in the case of a sewer district, board of public utilities, association, municipality or other public body, the president or chairman of the body or the president's or chairman's designee; in the case of a privately owned wastewater treatment plant, the legal owner.

(16) "Reciprocity" means the exchange of a valid out-of-state wastewater treatment plant operator's certificate achieved by passing a written examination for an equivalent level of certification without further examination.

(17) "Wastewater certification program coordinator" means an employee of the department who is appointed by the director to serve on the board and who administers the wastewater treatment plant operator certification program.

(18) "Wastewater collection system" means any system of lines, pipes, manholes, pumps, liftstations, or other facilities used to collect and transport wastewater.

(19) "Wastewater treatment plant" means a facility used to treat any liquid or waterborne waste of domestic origin or a combination of domestic, commercial or industrial origin, and which by its design requires the presence of an operator for its operation. It shall not include any facility used exclusively by a single family residence, septic tanks with subsoil absorption, industrial wastewater treatment plants, or wastewater collection systems.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-020, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-020, filed 4/16/82. Statutory Authority: RCW 70.95B.040. 78-11-016 (Order DE 78-16), § 173-230-020, filed 10/11/78; Order 73-30, § 173-230-020, filed 11/9/73.]

WAC 173-230-030 Duties of the board. (1) Recommend to the director the classification of wastewater treatment plants when a plant handles a unique treatment process or complex waste that is not reflected in the wastewater treatment plant classification system set forth in WAC 173-230-140.

(2) Develop operator qualification standards consistent with the wastewater treatment plant classification

system and examine the qualifications of applicants for certification.

(3) Assist in the development of rules and regulations; prepare, administer and evaluate examinations used to measure an operator's qualifications for certification. Recommend to the director the issuance or revocation of certificates.

(4) Encourage operating personnel other than those who are required to be certified in RCW 70.95B.030 to become certified on a voluntary basis.

(5) Maintain records of operator qualifications, certifications, and a register of certified operators.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-030, filed 10/23/87; 78-11-016 (Order DE 78-16), § 173-230-030, filed 10/11/78; Order 73-30, § 173-230-030, filed 11/9/73.]

WAC 173-230-040 Certification required. (1) After July 1, 1974, it shall be unlawful for any person, firm, corporation, municipal corporation or other governmental subdivision or agency to operate a wastewater treatment plant unless the operator designated by the owner in responsible charge of the plant holds a valid certificate of at least the same classification as that of the wastewater treatment plant being operated. When a wastewater treatment plant is operated on more than one daily shift, the individual in charge of each regularly run shift at the wastewater treatment plant being operated shall also be certified.

(2) After January 1, 1989, it shall be unlawful to operate a wastewater treatment plant on more than one daily shift as described in subsection (1) of this section unless the operator in charge of each shift, as designated by the owner, is certified at a level not less than one class lower than the class of plant being operated. The operator in charge of each shift shall be subordinate to the operator in responsible charge of the plant who is certified at a level equal to or higher than the classification of the plant being operated.

(3) When a position required to be filled by a certified wastewater treatment plant operator as described herein is vacated due to a scheduled vacation or a short-term illness, these requirements may be waived temporarily at the director's discretion.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-040, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-040, filed 4/16/82. Statutory Authority: RCW 70.95B.040. 78-11-016 (Order DE 78-16), § 173-230-040, filed 10/11/78; Order 73-30, § 173-230-040, filed 11/9/73.]

WAC 173-230-050 Certification prerequisites. (1) Certificates shall be issued only upon application and only after payment of fees as required herein. Except as provided in WAC 173-230-050(2), certificates in appropriate classifications shall be issued to those who are eligible for examination pursuant to WAC 173-230-061 and only after successful completion of an examination as provided for in WAC 173-230-070.

(2) Certificates shall be issued without examination under the following conditions:

(a) In appropriate classifications, to an operator who on July 1, 1973, held a certificate of competency attained by examination under the voluntary certification program sponsored jointly by the department of social and health services and the Pacific Northwest Pollution Control Association.

(b) In appropriate classifications, to a person verified by the owner to have been the operator in responsible charge of a wastewater treatment plant on July 1, 1973. A certificate issued to any person under this subsection shall be known as a "provisional" certificate and shall be valid only for the plant of which he or she was the operator on July 1, 1973, and shall not be renewed if such plant thereafter has been or is significantly modified or if the operator terminates service with that plant.

(c) In appropriate classifications, to persons who fill a vacated position required by RCW 70.95B.020 to be filled by a certified operator. A certificate issued under this subsection shall be known as a "temporary" certificate and shall be valid for a period of not more than twelve months from the date of issue and shall be non-renewable. If a position is vacated by the holder of a temporary certificate issued under this subsection, no additional temporary certificate shall be issued.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-050, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-050, filed 4/16/82. Statutory Authority: RCW 70.95B.040. 78-11-016 (Order DE 78-16), § 173-230-050, filed 10/11/78; Order 73-30, § 173-230-050, filed 11/9/73.]

WAC 173-230-061 Applications and certification requirements. (1) Application for certification to the various classifications of wastewater treatment plant operator shall be filed with the wastewater certification program coordinator. The wastewater certification program coordinator shall make application forms available upon request.

(2) Upon receipt of a completed application, the wastewater certification program coordinator shall screen the application against the following criteria to determine eligibility for examination or reciprocal certification.

(3) Certification requirements: Applicants for certification by examination or reciprocity must meet the minimum education and operating experience requirements or equivalents set forth below:

Certification Classification	Education	Operating Experience
OIT	High school diploma	3 months
Group I	High school diploma	1 year
Group II	High school diploma	3 years
Group III	High school diploma plus two years college	4 years

Certification Classification	Education	Operating Experience
Group IV	High school diploma plus four years college	4 years

(a) Applicants for Group I certification may not substitute equivalent work experience or college for any portion of the operating experience requirement.

(b) At least half of the operating experience requirement for Class II, III, or IV certification must be gained on-site, in a wastewater treatment plant with a classification rating not less than one class lower than the class of certification desired.

(c) College claimed by an applicant for certification shall be credited toward the certification requirements only when documented on a transcript or a certificate of completion.

(4) Equivalent education

(a) A GED is equivalent to a high school diploma.

(b) One year of excess operating experience may be substituted for one year of high school or two years of grade school – no limit.

(c) Applicants for Group III and IV certification may substitute one year of excess operating experience for one year of college for up to half of the college requirement.

Note: Operating experience substituted for an education requirement may not also be applied to the operating experience requirement.

(5) Equivalent operating experience

(a) OIT applicants may substitute three CEUs or equivalent for the operating experience requirement provided the CEUs are earned upon completion of coursework in wastewater treatment plant operation.

(b) Applicants for Group II certification may substitute up to one and one-half years of college for one and one-half years of the operating experience requirement.

(c) Applicants for Group III and IV certification may substitute up to two years of excess college for two years of the operating experience requirement.

(d) Applicants may substitute work experience in the fields identified below for up to half of the operating experience requirement for Group II, III, and IV certification at a rate determined by the board:

- Experience as an environmental or operations consultant.
- Experience in an environmental or engineering branch of federal, state, county, or local government.
- Experience as a wastewater collection system operator.
- Experience as a water distribution system operator and/or manager.
- Experience as a wastewater pump station operator.
- Experience as a water treatment plant operator.

The board may also consider work experience in fields such as building and equipment maintenance, boiler operation, machinist, laboratory technician, engineering, welding, or other related fields on a case-by-case basis when presented with a written description of the duties performed on the job by the applicant for certification.

Note: College substituted for an operating experience requirement cannot also be applied to the education requirement.

(6) Exemptions

In the event an applicant for Group III or IV certification cannot meet the minimum college education requirements or equivalents set forth in subsections (3), (4), and (5) of this section, the board shall consider the applicants eligibility for certification using the following substitution formula:

- After providing verification of a high school diploma or GED, Group III and IV applicants may substitute three years of excess operating experience in a wastewater treatment plant with a classification rating not less than one classification lower than the level of certification desired, for one year of college – no limit.

(7) If no examination is required, the wastewater certification program coordinator shall present the application to the board for consideration. The board shall make a recommendation to the director regarding the approval or denial of the request for certification.

(8) Group IV applications shall be submitted to the board for approval prior to scheduling for examination.

(9) If an examination is required, the wastewater certification program coordinator shall notify, schedule, and examine all applicants for certification.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-061, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-061, filed 4/16/82.]

WAC 173-230-070 Examination. (1) The board shall prepare written examinations to be used in determining the competency of operators.

(2) Examinations shall be held at least three times annually at places and times set by the board. These examinations shall be held on the first Monday of February, June, and October each year. In the event the exam date falls on a holiday, the examination shall be rescheduled by the wastewater certification program coordinator.

(3) All examinations shall be graded by the wastewater certification program coordinator and the applicant shall be notified of the score attained and pass or fail. Examinations shall not be returned to the applicant.

(4) An applicant who fails to pass an examination may be reexamined at the next scheduled examination with no additional application or fee.

(5) An applicant who fails to pass a second examination as provided for in WAC 173-230-070(4) must reapply for further examination as provided for in WAC 173-230-090(2). No individual will be allowed to retake the same examination more than twice consecutively. After two consecutive examinations, one examination period must be skipped.

(6) The board shall forward its recommendations for certification of those examined to the director.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-070, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-070, filed 4/16/82; Order 73-30, § 173-230-070, filed 11/9/73.]

WAC 173-230-080 Certificate term and renewals.

(1) Except as provided for in WAC 173-230-050 (2)(c),

the term for any certificate or renewal thereof shall be from the first of January of the year of issuance until the thirty-first of December of the same year or the year designated by the department.

(2) Except as provided in WAC 173-230-050 (2)(c), all certificates shall be renewable upon presentation of evidence that the certificate holder demonstrates continued professional growth in the field. The department shall mail renewal notices to all certificate holders eligible for renewal prior to the date the certificate expires.

(3) In order to demonstrate continued professional growth in the field, each certificate holder must accomplish one of the following activities during a three-year period ending December 31, 1979, and each three-year period thereafter.

(a) Accumulate a minimum of three CEUs or college credits in coursework relevant to the field;

(b) Advance by exam to a higher level of certification in Washington's wastewater treatment plant operator's certification program. Advancement from OIT to Group I certification shall not fulfill this requirement;

(c) Achieve certification by examination in the waterworks certification program administered by the Washington department of social and health services;

(d) Achieve certification by examination in a different classification of the waterworks certification program administered by DSHS as shown below:

- Water Distribution Manager (WDM) to Water Treatment Plant Operator (WTPO)
- WTPO to WDM
- Water Distribution Specialist (WDS) to WDM or WTPO
- Cross Connection Control Specialist (CCS) to WDM or WTPO or WDS;

(e) On or after January 1, 1989, achieve certification by examination or advance by examination to a higher level in Washington's voluntary wastewater collection system operator's certification program administered by the Washington Wastewater Collection System Personnel Association. Advancement from the in-training certification classification to the Level 1 classification shall not fulfill this requirement.

(4) It is the responsibility of each certificate holder to satisfy the continued professional growth requirement on or before December 31 of the last year of the three-year period described in subsection (3) of this section. The department shall mail a written notice to each certificate holder who has not fulfilled the continued professional growth requirement. If this requirement is not satisfied, the certificate shall not be renewable. Failure to renew a certificate for any reason shall be handled as described in WAC 173-230-100.

(5) On and after January 1, 1989, the department may collect renewal fees for a period not to exceed three calendar years. The department shall notify certificate holders who are eligible for renewal as described in subsection (2) of this section the amount of fees owed and the date by which the fees must be paid.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-080, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-080, filed 4/16/82; Order 73-30, § 173-230-080, filed 11/9/73.]

WAC 173-230-090 Fees. (1) Except for applications for certificates under WAC 173-230-050 (2)(a), applications for certification by examination will be accepted for processing only when accompanied by a fee of twenty dollars. Applications for certification by reciprocity will be accepted for processing only when accompanied by a fee of forty dollars.

(2) Except as provided under WAC 173-230-070(4), applications for reexamination will be accepted for processing only when accompanied by an application fee of twenty dollars.

(3) In the event an application for certification is denied, the department may reimburse up to half the fee amount provided the department receives a written request for reimbursement within thirty days after the letter of denial is mailed.

(4) Applications for certificate renewals will be accepted for processing only when accompanied by a renewal fee of ten dollars for each year of renewal.

(5) All receipts hereunder shall be paid into the state general fund.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-090, filed 10/23/87; 78-11-016 (Order DE 78-16), § 173-230-090, filed 10/11/78; Order 73-30, § 173-230-090, filed 11/9/73.]

WAC 173-230-100 Suspension and revocation. (1) When a certificate is not renewed, such certificate, upon notice by the director, shall be suspended for sixty days. If renewal of the certificate is not completed during the suspension period, the director shall mail a written notice of revocation to the certificate holder's employer as last known by the department and to the certificate holder at the address last known by the department. This notice of revocation shall be sent by certified mail. If, during the revocation notice period, the certificate is not renewed, the certificate shall be revoked ten days after such notice is mailed.

(2) Certificates may also be revoked when the board so recommends to the director, upon finding:

(a) Fraud or deceit in obtaining the certificate.

(b) Gross negligence in the operation of a wastewater treatment plant.

(c) Violation of the requirements of this chapter or the statute it implements or of any lawful rule, regulation or order of the department.

(3) No revocation shall be made under subsection (2) of this section unless the operator has been notified that revocation is proposed, has been advised of the grounds therefor and has been given an opportunity to appear before the board and be heard on the matter.

(4) Whenever an individual's certificate is revoked, the individual shall not be certified again until he or she has applied for certification pursuant to WAC 173-230-061 paid the application fee, and passed the written examination for the classification of certification desired.

(5) If revocation was made pursuant to subsection (2) of this section, the operator shall not be eligible to reapply for a certificate for one year from the date the revocation became final.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-100, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-100, filed 4/16/82. Statutory Authority: RCW 70.95B.040. 78-11-016 (Order DE 78-16), § 173-230-100, filed 10/11/78; Order 73-30, § 173-230-100, filed 11/9/73.]

WAC 173-230-110 Reciprocity. The director may, with the approval of the board, waive examinations for applicants holding valid wastewater treatment plant operators certificates or licenses issued by other states having equivalent standards as determined by the board.

(1) Applications for reciprocity will be considered for approval only when the department receives written confirmation from the certifying authority of the state or province in which the applicant is certified, that the certificate is currently valid and was earned by passing a written examination. A copy of the exam passed by the applicant must also be released for review by the board.

(2) The board shall review and compare out-of-state examinations with Washington's exams to determine at which level the exam is most equivalent.

(3) Certificates shall be issued to each reciprocity applicant who meets the minimum education and experience requirements set forth in WAC 173-230-061 and who passes a written examination comparable to Washington's exam as determined by the board and approved by the director.

[Statutory Authority: RCW 70.95B.040. 87-22-006 (Order 87-36), § 173-230-110, filed 10/23/87. Statutory Authority: Chapter 70.95B RCW. 82-09-056 (Order DE 82-07), § 173-230-110, filed 4/16/82; Order 73-30, § 173-230-110, filed 11/9/73.]

WAC 173-230-120 Appeals. Decisions of the director under this chapter may be appealed within thirty days from the date of notice thereof to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

[Order 73-30, § 173-230-120, filed 11/9/73.]

WAC 173-230-130 Violations. Violation of this chapter is a misdemeanor. Each day of operation in violation hereof constitutes a separate offense. Upon conviction, violators are subject to fines not exceeding one hundred dollars for each offense. Injunctions may be obtained for continuing violations.

[Order 73-30, § 173-230-130, filed 11/9/73.]

WAC 173-230-140 Classification of wastewater treatment plants. Wastewater treatment plants are classified in four groups, according to the total point rating as derived from the items listed below. Assignment of points for wastewater treatment plants shall be made by the director.

(1) PLANT CLASS:

- (a) Class I - 1 - 25 total points.
- (b) Class II - 26 - 50 total points.
- (c) Class III - 51 - 70 total points.
- (d) Class IV - 71 or more total points.

RATING
VALUE

(2) **DESIGN FLOW** 1 per 5 mgd, not to exceed 20 points
(Example: 5 mgd and less = 1 point; 5.1 to 10 mgd = 2 points, etc.)

(3) **POPULATION EQUIVALENT (P.E.)** .. 1 per 5,000 P.E., not to exceed 20 points

$$PE = \frac{(\text{Flow, mgd}) (\text{BOD, mg/L})(8.34 \text{ lbs/gal})}{0.2 \text{ lbs BOD/person/day}}$$

- (4) **PRETREATMENT UNITS**
- (a) Manually cleaned screens 1
 - (b) Mechanically cleaned screens 2
 - (c) Grit removal 3
 - (d) Preaeration 1
 - (e) Comminutor, barminutors, grinders, etc. 1
 - (f) Plant pumping 3

- (5) **PRIMARY TREATMENT UNITS**
- (a) Imhoff tanks, spirogesters, Clarigesters, etc. 3
 - (b) Primary clarifiers 5
 - (c) Primary clarifiers utilizing settling aid chemicals 9

- (6) **SECONDARY TREATMENT UNITS**
- (a) Trickling filter (without recirculation) 5
 - (b) Trickling filter (with recirculation) 7
 - (c) Activated sludge
 - (i) Mechanical aeration 8
 - (ii) Diffused or dispersed air 10
 - (iii) Oxidation ditch 8
 - (iv) Pure oxygen 13
 - (d) Stabilization ponds 5
 - (e) Stabilization ponds with aeration 7
 - (f) Secondary clarifiers 5

- (7) **TERTIARY TREATMENT UNITS**
- (a) Polishing pond 2
 - (b) Land disposal of effluent 5
 - (c) Chemical treatment for phosphorus removal 5
 - (d) Activated carbon beds (with carbon regeneration) 10
 - (e) Activated carbon beds (without carbon regeneration) 8
 - (f) Sand or mixed-media filters 4
 - (g) Other nutrient removal processes following secondary treatment 10

(8) **DISINFECTION** 4

RATING
VALUE

filed 1/23/79. Formerly chapter 372-20 WAC.] Repealed by 83-23-063 (Order DE 83-30), filed 11/16/83. Statutory Authority: Chapters 43.21A and 90.48 RCW.

- (9) **SLUDGE TREATMENT**
 - (a) Sludge digesters (anaerobic) 4
 - (i) If heated, add 3
 - (ii) If mechanically or gas mixed, add 2
 - (b) Sludge digesters (aerobic) 6
 - (c) Drying beds or evaporation lagoons 2
 - (d) Thickener clarifier 5
 - (e) Vacuum filter 7
 - (f) Centrifuge 7
 - (g) Incinerator 10
 - (h) Utilizing digester gas for other than heating purposes 3

When a wastewater treatment plant handles a complex waste or a unique treatment process that is not reflected in the classification system, the director upon recommendations of the board may establish a classification consistent with the intent of the above classification system.

[Statutory Authority: RCW 70.95B.040, 87-22-006 (Order 87-36), § 173-230-140, filed 10/23/87; 78-11-016 (Order DE 78-16), § 173-230-140, filed 10/11/78; Order 73-30, § 173-230-140, filed 11/9/73.]

Chapter 173-240 WAC

SUBMISSION OF PLANS AND REPORTS FOR CONSTRUCTION OF WASTEWATER FACILITIES

WAC

- 173-240-010 Purpose and scope.
- 173-240-020 Definitions.

DOMESTIC WASTEWATER FACILITIES

- 173-240-030 Submission of plans and reports.
- 173-240-035 Restrictions—Subsurface disposal systems.
- 173-240-040 Review standards.
- 173-240-050 General sewer plan.
- 173-240-060 Engineering report.
- 173-240-070 Plans and specifications.
- 173-240-075 Construction quality assurance plan.
- 173-240-080 Operation and maintenance manual.
- 173-240-090 Declaration of construction completion.
- 173-240-095 Form—Declaration of construction of water pollution control facilities.
- 173-240-100 Requirement for certified operator.
- 173-240-104 Ownership and operation and maintenance.

INDUSTRIAL WASTEWATER FACILITIES

- 173-240-110 Submission of plans and reports.
- 173-240-120 Review standards.
- 173-240-130 Engineering report.
- 173-240-140 Plans and specifications.
- 173-240-150 Operation and maintenance manual.

DOMESTIC AND INDUSTRIAL WASTEWATER FACILITIES

- 173-240-160 Requirement for professional engineer.
- 173-240-170 Right of inspection.
- 173-240-180 Approval of construction changes.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-240-105 Form—Certificate of construction of water pollution control facilities. [Statutory Authority: RCW 90.48-.110, 79-02-033 (Order DE 78-10), § 173-240-105,

WAC 173-240-010 Purpose and scope. The purpose of this chapter is to implement RCW 90.48.110. The department interprets "plans and specifications" as mentioned in RCW 90.48.110 as including "engineering reports," "plans and specifications," and "general sewer plans," all as defined in WAC 173-240-020. This chapter also includes provisions for review and approval of proposed methods of operation and maintenance.

[Statutory Authority: Chapters 43.21A and 90.48 RCW, 83-23-063 (Order DE 83-30), § 173-240-010, filed 11/16/83. Statutory Authority: RCW 90.48.110, 79-02-033 (Order DE 78-10), § 173-240-010, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-020 Definitions. (1) "Approval" means written approval.

(2) "Construction quality assurance plan" means a plan describing the methods by which the professional engineer in responsible charge of inspection of the project will determine that the facilities were constructed without significant change from the department approved plans and specifications.

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

(4) "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.

(5) "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. In the case of subsurface sewage treatment and disposal, the term is restricted to mean those facilities treating and disposing of domestic wastewater only from:

(a) A septic tank system with subsurface sewage treatment and disposal and an ultimate design capacity exceeding fourteen thousand five hundred gallons per day at any common point; or

(b) A mechanical treatment system or lagoon followed by subsurface disposal with an ultimate design capacity exceeding three thousand five hundred gallons per day at any common point.

Where the proposed system utilizing subsurface disposal has received a state construction grant or a federal construction grant under the Federal Water Pollution Control Act as amended, such system is a "domestic wastewater facility" regardless of size.

(6) "Engineering report" means a document which thoroughly examines the engineering and administrative aspects of a particular domestic or industrial wastewater facility. The report shall contain the appropriate information required in WAC 173-240-060 or 173-240-130. In the case of a domestic wastewater facility project, the report describes the recommended financing method.

The facility plan described in federal regulation 40 CFR 35 is an "engineering report." This federal regulation describes the Environmental Protection Agency's municipal wastewater construction grants program.

(7) "General sewer plan" means the:

(a) Sewerage general plan adopted by counties under chapter 36.94 RCW; or

(b) Comprehensive plan for a system of sewers adopted by sewer districts under chapter 56.08 RCW; or

(c) Plan for a system of sewerage adopted by cities under chapter 35.67 RCW; or

(d) Comprehensive plan for a system of sewers adopted by water districts under chapter 57.08 RCW; or

(e) Plan for sewer systems adopted by public utility districts under chapter 54.16 RCW and port districts under chapter 53.08 RCW.

(f) The "general sewer plan" is a comprehensive plan for a system of sewers adopted by a local government entity. The plan includes the items specified in each respective statute. It includes the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, local service areas and a general description of the collection system to serve those areas. The plan also includes preliminary engineering in adequate detail to assure technical feasibility, provides for the method of distributing the cost and expense of the sewer system, and indicates the financial feasibility of plan implementation.

(8) "Industrial wastewater" means the water or liquid carried waste from industrial or commercial processes, as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. The term includes contaminated stormwater and also leachate from solid waste facilities.

(9) "Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim or dispose of industrial wastewater.

(10) "Owner" means the state, county, city, town, federal agency, corporation, firm, company, institution, person or persons, or any other entity owning a domestic or industrial wastewater facility.

(11) "Plans and specifications" means the detailed drawings and specifications used in the construction or modification of domestic or industrial wastewater facilities. Except as otherwise allowed, plans and specifications are preceded by an approved engineering report. For some industrial facilities final conceptual drawings for all or parts of the system may be substituted for plans and specifications with the permission of the department.

(12) "Sewerage system" means a system of sewers and appurtenances for the collection, transportation, pumping, treatment and disposal of domestic wastewater together with such industrial waste as may be present. By definition a sewerage system is a "domestic wastewater facility."

(13) "Sewer line extension" shall mean any pipe added or connected to an existing sewerage system, together with any pump stations: *Provided*, That the term does not include gravity side sewers which connect individual building or dwelling units to the sewer system when these side sewers are less than one hundred fifty feet in length and not over six inches in diameter.

(14) "Subsurface sewage treatment and disposal" means the physical, chemical, or bacteriological treatment and disposal of domestic wastewater within the soil profile by placement beneath the soil surface in trenches, beds, seepage pits, mounds, or fills.

(15) "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, ground waters, salt waters, and all other waters and watercourses within the jurisdiction of the state of Washington.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-020, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-020, filed 1/23/79. Formerly WAC 372-20-010.]

DOMESTIC WASTEWATER FACILITIES

WAC 173-240-030 Submission of plans and reports.

(1) Prior to the construction or modification of domestic wastewater facilities, engineering reports and plans and specifications for the project shall be submitted to and approved by the department, except as noted in WAC 173-240-030(5).

(2) All reports and plans and specifications shall be submitted by the owner or his authorized representative consistent with a compliance schedule issued by the department or at least sixty days prior to the time approval is desired.

(3) Construction or modification of domestic wastewater facilities shall conform to the following schedule of tasks unless otherwise modified by these regulations:

(a) Submission and approval of engineering report;

(b) Submission and approval of plans and specifications;

(c) Submission and approval of construction quality assurance plan;

(d) Submission and approval of draft operation and maintenance manual;

(e) Declaration of completion of construction by the project engineer; and

(f) Submission of complete operation and maintenance manual.

(4) Where two or more years has lapsed since approval of the engineering report or plans and specifications and construction has not begun, it may be necessary to update that document to reflect changed conditions such as: Water quality, services availability, regulatory requirements, or engineering technology.

(5) If the local government entity has received department approval of a general sewer plan and standard design criteria, engineering reports and plans and specifications for sewer line extensions, including pump stations, need not be submitted for approval. In this case the entity need only provide a description of the project

and written assurance that the extension is in conformance with the general sewer plan. However in the following situations specific department approval is necessary for sewer line extensions prior to construction:

(a) The proposed sewers, or pump stations involve installation of overflows or bypasses; or

(b) The proposed sewers, pump or lift stations discharge to an overloaded treatment, collection, or disposal facility.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-030, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-030, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-035 Restrictions--Subsurface disposal systems. (1) Domestic wastewater facilities utilizing subsurface sewage treatment and disposal, as defined in WAC 173-240-020(5), are prohibited except under those extraordinary circumstances where no other reasonable alternatives exist and providing:

(2) The facility is owned, operated, and maintained by a public entity, except as noted in WAC 173-240-104; and

(3) Adequate facility construction oversight is provided by the public entity; and

(4) The proposed project is consistent with local health and land use regulations; and

(5) Loading rates do not exceed 1,570 gallons per day per acre of gross land area in medium sands or finer grained soils and shall not exceed 900 gallons per day per acre of gross land in coarser grained soils or other soils where conditions are such that adequate treatment is not provided. For the purposes of this section gross land area is defined as the contiguous land area of a proposed development which might include the centerline of adjoining road or street right-of-ways.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-035, filed 11/16/83.]

WAC 173-240-040 Review standards. (1) The department will review general sewer plans, engineering reports, plans and specifications, and operation and maintenance manuals for domestic wastewater facilities to ascertain that the proposed facilities will be designed, constructed, operated, and maintained to meet effluent limitations and other requirements of an NPDES or state waste discharge permit, if applicable, and to meet the policies and requirements of chapters 90.48 and 90.54 RCW pertaining to prevention and control of pollution of waters of the state.

(2) In addition to the above, the department will review documents submitted pursuant to this chapter to ascertain that they are reasonably consistent with the appropriate sections of the state of Washington, "Criteria for sewage works design." Additional references may include, but are not limited to, the following:

(a) Manuals of Practice, Water Pollution Control Federation.

(b) Manuals of Engineering Practice, American Society of Civil Engineering.

(c) Standard Specifications for Municipal Public Works Construction, American Public Works Association.

(d) Considerations for Preparation of Operation and Maintenance Manuals, United States Environmental Protection Agency.

(e) Process Design Manuals, United States Environmental Protection Agency.

(f) Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability, United States Environmental Protection Agency.

(g) Design Manual: Onsite Wastewater Treatment and Disposal Systems, U.S.E.P.A. October 1980.

(h) Guidelines for Larger On-Site Sewage Disposal Systems, Washington State Department of Social and Health Services and Department of Ecology.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-040, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-040, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-050 General sewer plan. (1) All general sewer plans required of any governmental agency prior to providing sewer service are "plans" within the requirements of RCW 90.48.110. Three copies of the proposed general sewer plan and each amendment to it shall be submitted to and approved by the department prior to its implementation.

(2) The general sewer plan shall be sufficiently complete so that engineering reports can be developed from it without substantial alterations of concept and basic considerations.

(3) The general sewer plan shall include the following information together with any other relevant data as requested by the department. To satisfy the requirements of the local government jurisdiction, additional information may be necessary.

(a) The purpose and need for the proposed plan.

(b) A discussion of who will own, operate, and maintain the system(s).

(c) The existing and proposed service boundaries.

(d) Layout map including the following:

(i) Boundaries. The boundary lines of the municipality or special district to be sewerred, including a vicinity map;

(ii) Existing sewers. The location, size, slope, capacity, direction of flow of all existing trunk sewers, and the boundaries of the areas served by each;

(iii) Proposed sewers. The location, size, slope, capacity, direction of flow of all proposed trunk sewers, and the boundaries of the areas to be served by each;

(iv) Existing and proposed pump stations and force mains. The location of all existing and proposed pumping stations and force mains, designated to distinguish between those existing and proposed;

(v) Topography and elevations. Topography showing pertinent ground elevations and surface drainage shall be shown, as well as proposed and existing streets;

(vi) Streams, lakes, and other bodies of water. The location and direction of flow of major streams, the high and low elevations of water surfaces at sewer outlets,

and controlled overflows, if any. All existing and potential discharge locations should be noted; and

(vii) Water systems. The location of wells or other sources of water supply, water storage reservoirs and treatment plants, and water transmission facilities.

(e) The population trend as indicated by available records, and the estimated future population for the stated design period. Briefly describe the method used to determine future population trends and the concurrence of any applicable local or regional planning agencies.

(f) Any existing domestic and/or industrial wastewater facilities within twenty miles of the general plan area and within the same topographical drainage basin containing the general plan area.

(g) A discussion of any infiltration and inflow problems. Also a discussion of actions which will alleviate these problems in the future.

(h) A statement regarding provisions for treatment and discussion of the adequacy of such treatment.

(i) List of all establishments producing industrial wastewater, the quantity of wastewater and periods of production, and the character of such industrial wastewater insofar as it may affect the sewer system or treatment plant. Consideration shall be given to future industrial expansion.

(j) Discussion of the location of all existing private and public wells, or other sources of water supply, and distribution structures as they are related to both existing and proposed domestic wastewater treatment facilities.

(k) Discussion of the various alternatives evaluated, and a determination of the alternative chosen, if applicable.

(l) A discussion, including a table, which shows the cost per service in terms of both debt service and operation and maintenance costs, of all facilities (existing and proposed) during the planning period.

(m) A statement regarding compliance with any adopted water quality management plan pursuant to the Federal Water Pollution Control Act as amended.

(n) A statement regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), if applicable.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-050, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-050, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-060 Engineering report. (1) The engineering report for a domestic wastewater facility shall include each appropriate (as determined by the department) item required in WAC 173-240-050 for general sewer plans unless an up-to-date general sewer plan is on file with the department. Normally, an engineering report is not required for sewer line extensions or pump stations. See WAC 173-240-020(13) and 173-240-030(5). The facility plan described in federal regulation 40 CFR 35 is an "engineering report."

(2) The engineering report shall be sufficiently complete so that plans and specifications can be developed from it without substantial changes. Three copies of the

report shall be submitted to the department for approval, excepting as waived under WAC 173-240-030 (5).

(3) The engineering report shall include the following information together with any other relevant data as requested by the department:

(a) The name, address, and telephone number of the owner of the proposed facilities, and his authorized representative.

(b) A project description including a location map and a map of the present and proposed service area.

(c) A statement of the present and expected future quantity and quality of wastewater, including any industrial wastes which may be present or expected in the sewer system.

(d) The degree of treatment required based upon applicable permits and regulations, the receiving body of water, the amount and strength of wastewater to be treated, and other influencing factors.

(e) A description of the receiving water, applicable water quality standards, and how water quality standards will be met outside of any applicable dilution zone.

(f) The type of treatment process proposed, based upon the character of the wastewater to be handled, the method of disposal, the degree of treatment required, and a discussion of the alternatives evaluated and the reasons they are unacceptable.

(g) The basic design data and sizing calculations of each unit of the treatment works. Expected efficiencies of each unit and also of the entire plant, and character of effluent anticipated.

(h) Discussion of the various sites available and the advantages and disadvantages of the site(s) recommended. The proximity of residences or developed areas to any treatment works. The relationship of the twenty-five-year and one hundred-year flood to the treatment plant site and the various plant units.

(i) A flow diagram showing general layout of the various units, the location of the effluent discharge, and a hydraulic profile of the system that is the subject of the engineering report and any hydraulically related portions.

(j) A discussion of infiltration and inflow problems, overflows and bypasses, and proposed corrections and controls.

(k) A discussion of any special provisions for treating industrial wastes, including any pretreatment requirements for significant industrial sources.

(l) Detailed outfall analysis or other disposal method selected.

(m) A discussion of the method of final sludge disposal and any alternatives considered.

(n) Provision for future needs.

(o) Staffing and testing requirements for the facilities.

(p) An estimate of the costs and expenses of the proposed facilities and the method of assessing costs and expenses. The total amount shall include both capital costs and also operation and maintenance costs for the life of the project, and shall be presented in terms of total annual cost and present worth.

(q) A statement regarding compliance with any applicable state or local water quality management plan or

any such plan adopted pursuant to the Federal Water Pollution Control Act as amended.

(r) A statement regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), if applicable.

(4) The engineering report for projects utilizing land application, including seepage lagoons, irrigation, and subsurface disposal, shall include information on the following together with appropriate parts of subsection (3) of this section, as determined by the department:

(a) Soils and their permeability;

(b) Geohydrologic evaluation of such factors as:

(i) Depth to ground water and ground water movement during different times of the year;

(ii) Water balance analysis of the proposed discharge area;

(iii) Overall effects of the proposed facility upon the ground water in conjunction with any other land application facilities that may be present;

(c) Availability of public sewers;

(d) Reserve areas for additional subsurface disposal.

(5) The engineering report for projects funded by the Environmental Protection Agency shall, in addition to the requirements of subsection (3) or (4) of this section, follow EPA facility plan guidelines contained in the EPA publication, "Guidance for Preparing a Facility Plan" (MCD-46), and shall indicate how the special requirements contained in 40 CFR 35.719-1 will be met.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-060, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-060, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-070 Plans and specifications. (1)

The plans and specifications for a domestic wastewater facility are the detailed construction documents by which the owner or his contractor bid and construct the facility. The content and format of the plans and specifications shall be as stated in the state of Washington, "criteria for sewage works design," and shall include a listing of the facility design criteria and a plan for interim operation of facilities during construction.

(2) Plans and specifications for sewer line extensions shall include, as a separate report, an analysis of the existing collection and treatment systems ability to transport and treat additional flow and loading.

(3) Two copies of the plans and specifications shall be submitted to the department for approval prior to start of construction, excepting as waived under WAC 173-240-030(5).

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-070, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-070, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-075 Construction quality assurance plan. (1)

Prior to construction a detailed plan must be submitted to the department showing how adequate and competent construction inspection will be provided.

(2) The construction quality assurance plan shall include:

(a) Construction schedule with a summary of planned construction activities, their sequence, interrelationships, durations, and terminations.

(b) Description of the construction management organization, management procedures, lines of communication, and responsibility.

(c) Description of anticipated quality control testing including type of test, frequency, and who will perform the tests.

(d) Description of the change order process including who will initiate change orders, as well as who will review, negotiate, and approve change orders.

(e) Description of the technical records handling methodology including where plans and specifications, as-built drawings, field orders, and change orders will be kept.

(f) Description of construction inspection program including inspection responsibility, anticipated inspection frequency, deficiency resolution, and inspector qualifications.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-075, filed 11/16/83.]

WAC 173-240-080 Operation and maintenance manual. (1)

The proposed method of operation and maintenance of the domestic wastewater facility shall be stated in the engineering report or plans and specifications and approved by the department. The statement shall be a discussion of who will own, operate, and maintain the facility and what the staffing and testing requirements are. The owner shall follow the approved method of operation after the facility is constructed, unless changes have been approved by the department.

(2) In those cases where the facility includes mechanical components, a detailed operation and maintenance manual shall be prepared prior to completion of construction. The purpose of the manual is to present technical guidance and regulatory requirements to the operator to enhance operation under both normal and emergency conditions. Two copies of the manual shall be submitted to the department for approval prior to completion of construction.

(3) In order to assure proper operation during construction and timely review and approval of the final operation and maintenance manual, a draft manual shall be submitted in the early stages of the construction of a facility. In addition, manufacturer's information on equipment must be available to the plant operator prior to unit start-up.

(4) The operation and maintenance manual shall include the following list of topics. For those projects funded by the Environmental Protection Agency the manual shall also follow the requirements of the EPA publication, "Considerations for Preparation of Operation and Maintenance Manuals."

(a) The assignment of managerial and operational responsibilities to include plant classification and classification of required operators.

(b) A description of plant type, flow pattern, operation, and efficiency expected.

(c) The principal design criteria.

(d) A process description of each plant unit, including function, relationship to other plant units, and schematic diagrams.

(e) A discussion of the detailed operation of each unit and description of various controls, recommended settings, fail-safe features, etc.

(f) A discussion of how the treatment facilities are to be operated during anticipated maintenance procedures, and under less than design loading conditions, if applicable, such as initial loading on a system designed for substantial growth.

(g) A section on laboratory procedures including sampling techniques, monitoring requirements, and sample analysis.

(h) Recordkeeping procedures and sample forms to be used.

(i) A maintenance schedule incorporating manufacturer's recommendations, preventative maintenance and housekeeping schedules, and special tools and equipment usage.

(j) A section on safety.

(k) A section stating the spare parts inventory, address of local suppliers, equipment warranties, and appropriate equipment catalogues.

(l) Emergency plans and procedures.

(5) In those cases where the facility does not include mechanical components, an operation and maintenance manual, which may be less detailed than that described in subsection (4) of this section, shall be submitted to the department for approval prior to completion of construction. The manual shall fully describe the treatment and disposal system and outline routine maintenance procedures needed for proper operation of the system.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-080, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-080, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-090 Declaration of construction completion. (1) Within thirty days following acceptance by the owner of the construction or modification of a domestic wastewater facility, the professional engineer in responsible charge of inspection of the project shall submit to the department (a) one complete set of record drawings or as-builts (b) a declaration stating the facilities were constructed in accordance with the provisions of the construction quality assurance plan and without significant change from the department approved plans and specifications.

(2) The declaration will be furnished by the department and will be the same form as WAC 173-240-095, declaration of construction of water pollution control facilities. The submission of the declaration is not necessary for sewer line extensions where the local government entity has received approval of a general sewer plan and standard design criteria.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-090, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-090, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-095 Form--Declaration of construction of water pollution control facilities.

DECLARATION OF CONSTRUCTION OF WATER POLLUTION CONTROL FACILITIES

Instructions:

A. Upon completion, and prior to the use of any project or portions thereof, a professional engineer shall complete and sign this form, declaring that the project was constructed in accordance with the provisions of the construction quality assurance plan and with the plans and specifications and major change orders approved by the department of ecology.

B. If a project is being completed in phased construction, a map shall be attached showing that portion of the project to which the declaration applies. A declaration of construction must be submitted for each phase of a project as it is completed. Additional declaration forms are available upon request from the department of ecology offices listed below.

NAME AND BRIEF DESCRIPTION OF PROJECT: -----

NAME OF OWNER ----- DOE PROJECT NO. -----

ADDRESS ----- DATE PROJECT OR
PHASE COMPLETED -----

CITY ----- STATE ----- ZIP -----

DOE PLAN AND
SPECIFICATION
APPROVAL DATE -----

I hereby declare that I am the project engineer of the above identified project and that said project was reviewed and observed by me or my authorized agent in accordance with the provisions of the construction quality assurance plan. I further declare that said project was to the best of my knowledge and information constructed and completed in accordance with the plans and specification and major change orders approved by the department of ecology and as shown on the owner's "as-built" plans.

----- SEAL
Signature or Professional Engineer
OF
DATE ----- ENGINEER

Please return completed form to the department of ecology office checked below.

SW Regional Office
Department of Ecology
Mail stop LU-11
7272 Cleanwater Lane
Olympia, WA 98504

Central Regional Office
Department of Ecology
3601 W. Washington
Yakima, WA 98903

NW Regional Office
Department of Ecology
4350 150th Ave. NE
Redmond, WA 98052

Eastern Regional Office
Department of Ecology
East 103 Indiana Ave.
Spokane, WA 99207

Municipal Division
Department of Ecology
PV-11
Olympia, WA 98503

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-095, filed 11/16/83.]

WAC 173-240-100 Requirement for certified operator. Each owner of a domestic wastewater treatment facility is required by chapter 70.95B RCW to have an operator, certified by the state, in responsible charge of the day to day operation of the facility. This requirement does not apply to a septic tank utilizing subsurface disposal. The certification procedures are set forth in chapter 173-230 WAC.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-100, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-100, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-104 Ownership and operation and maintenance. (1) Domestic sewage facilities will not be approved unless ownership and responsibility for operation and maintenance is by a public entity except as provided in subsections (2) and (3) of this section. If a waste discharge permit is required it must be issued to the public entity. Nothing herein precludes a public entity from contracting operation and maintenance of domestic sewage facilities.

(2) Ownership by nonpublic entities may be approved if the department determines such ownership is in the public interest; provided there is an enforceable contract, approved by the department, between the nonpublic entity and a public entity with an approved sewer general plan which will assure immediate assumption of the system under the following conditions:

(a) Treatment efficiency is unsatisfactory either as a result of plant capacity or physical operation; or

(b) If such assumption is necessary for the implementation of a general sewer plan.

(3) The following domestic wastewater facilities would not require public entity ownership, operation, and maintenance:

(a) Those facilities existing or approved for construction as of the effective date of this section, until such time as the facility is expanded to accommodate additional development.

(b) Those 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 commercial establishments for the purpose of this section.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-104, filed 11/16/83.]

[Title 173 WAC—p 300]

INDUSTRIAL WASTEWATER FACILITIES

WAC 173-240-110 Submission of plans and reports.

(1) Prior to the construction or modification of industrial wastewater facilities, engineering reports and plans and specifications for the project shall be submitted to and approved by the department.

(2) All engineering reports and plans and specifications should be submitted by the owner consistent with a compliance schedule issued by the department or at least thirty days prior to the time approval is desired. The department will generally review and either approve (or conditionally approve), comment on, or disapprove such plans and reports within the thirty-day period unless circumstances prevent, in which case the owner will be notified and informed of the reason for the delay.

(3) Construction or modification of industrial wastewater facilities shall conform to the following schedule of tasks unless waived in accordance with subsection (5).

(a) Submission and approval of an engineering report;

(b) Submission and approval of plans and specifications;

(c) Submission of an operation and maintenance manual.

(4) Where two or more years has elapsed since approval of the engineering report or plans and specifications, it may be necessary to update that document to reflect changed water quality conditions, regulatory requirements, or engineering technology.

(5) Upon request by the owner, the department may waive the requirement for a three step submission of documents for industrial facilities. In such a case the department will require instead conceptual plans which also include the appropriate (as determined by the department) information from the engineering report and an operation and maintenance manual.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-110, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-110, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-120 Review standards. The department will review engineering reports, plans and specifications, and operation and maintenance manuals for industrial wastewater facilities to ascertain that the proposed facilities will be designed, constructed, operated and maintained to meet effluent limitations and other requirements of an NPDES or state waste discharge permit, if applicable, and to meet the policies and requirements of chapters 90.48 and 90.54 RCW pertaining to prevention and control of pollution of waters of the state, and will be consistent with good engineering practices.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-120, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-120, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-130 Engineering report. (1) The engineering report for an industrial wastewater facility shall be sufficiently complete so that plans and specifications can be developed from it without substantial

changes. Two copies of the report shall be submitted to the department for approval.

(2) The engineering report shall include the following information together with any other relevant data as requested by the department:

- (a) Type of industry or business.
- (b) The kind and quantity of finished product.
- (c) The quantity and quality of water used by the industry and a description of how consumed or disposed of, including:
 - (i) The quantity and quality of all process wastewater and method of disposal;
 - (ii) The quantity of domestic wastewater and how disposed of;
 - (iii) The quantity and quality of noncontact cooling water (including air conditioning) and how disposed of; and
 - (iv) The quantity of water consumed or lost to evaporation.
- (d) The amount and kind of chemicals used in the treatment process, if any.
- (e) The basic design data and sizing calculations of the treatment units.
- (f) A discussion of the suitability of the proposed site for the facility.
- (g) A description of the treatment process and operation, including a flow diagram.
- (h) All necessary maps and layout sketches.
- (i) Provisions for bypass, if any.
- (j) Physical provision for oil and hazardous material spill control and/or accidental discharge prevention.
- (k) Results to be expected from the treatment process including the predicted wastewater characteristics, as shown in the waste discharge permit, where applicable.
- (l) A description of the receiving water, location of the point of discharge, applicable water quality standards, and how water quality standards will be met outside of any applicable dilution zone.
- (m) Detailed outfall analysis.
- (n) The relationship to existing treatment facilities, if any.
- (o) Where discharge is to a municipal sewerage system, a discussion of that system's ability to transport and treat the proposed industrial waste discharge without exceeding the municipality's allocated industrial capacity. Also, a discussion on the effects of the proposed industrial discharge on municipal sludge utilization or disposal.
- (p) Where discharge is through land application, including seepage lagoons, irrigation, and subsurface disposal, a geohydrologic evaluation of such factors as:
 - (i) Depth to ground water and ground water movement during different times of the year;
 - (ii) Water balance analysis of the proposed discharge area;
 - (iii) Overall effects of the proposed facility upon the ground water in conjunction with any other land application facilities that may be present.
- (q) A statement, expressing sound engineering justification through the use of pilot plant data, results from

other similar installations, and/or scientific evidence from the literature, that the effluent from the proposed facility will meet applicable permit effluent limitations and/or pretreatment standards.

(r) A discussion of the method of final sludge disposal selected and any alternatives considered with reasons for rejection.

(s) A statement as to who will own, operate, and maintain the system after construction.

(t) A statement regarding compliance with any state or local water quality management plan or any such plan adopted pursuant to the Federal Water Pollution Control Act as amended.

(u) Provisions for any committed future plans.

(v) A discussion of the various alternatives evaluated, if any, and reasons they are unacceptable.

(w) A timetable for final design and construction.

(x) A statement regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA), if applicable.

(y) Additional items to be included in an engineering report for a solid waste leachate treatment system are:

(i) A vicinity map and also a site map which shows topography, location of utilities, and location of the leachate collection network, treatment systems, and disposal;

(ii) Discussion of the solid waste site, working areas, soil profile, rainfall data, and ground water movement and usage;

(iii) A statement of the capital costs and the annual operation and maintenance costs;

(iv) A description of all sources of water supply within two thousand feet of the proposed disposal site. Particular attention should be given to showing impact on usable or potentially usable aquifers.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-130, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-130, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-140 Plans and specifications. (1)

Upon request of the owner the department may, at its discretion, allow submission of conceptual plans for industrial facilities, as noted in WAC 173-240-110(5). Two copies of the plans and specifications shall be submitted to the department for approval prior to start of construction.

(2) The plans and specifications shall include the following information together with any other relevant data as requested by the department:

(a) Repeat presentation of the basic engineering design criteria from the engineering report.

(b) If there are any deviations from the concepts of the engineering report, explanation of the changes to include as much detail as would have been provided in an engineering report.

(c) The plan and section drawings of major components such as the treatment units, pump stations, flow measuring devices, sludge handling equipment, and influent and effluent piping. Foundations and/or soil preparation should be shown for major structures.

(d) A general site drawing showing the location with respect to the entire plant site and a detailed site drawing showing the component siting.

(e) A schematic drawing showing flows to include: In plant collection, and wastewater pumping, treatment, and discharge.

(f) A hydraulic profile showing head under maximum flows. This requirement may be waived where the three step submission of documents has been waived pursuant to WAC 173-240-110(5).

(g) Instrumentation, controls, and sampling schematics.

(h) General operating procedures such as startup, shutdown, spills, etc.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-140, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-140, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-150 Operation and maintenance manual. (1) A detailed operation and maintenance manual shall be prepared for an industrial wastewater facility which includes mechanical components prior to the completion of construction. The manual is to be submitted to the department for review and approval. The purpose of the manual is to present technical guidance and regulatory requirements to the operator to enhance operation under both normal and emergency conditions.

(2) The operation and maintenance manual shall include the following list of topics:

(a) The names and phone numbers of the responsible individuals.

(b) A description of plant type, flow pattern, operation, and efficiency expected.

(c) The principal design criteria.

(d) A process description of each plant unit, including function, relationship to other plant units, and schematic diagrams.

(e) Explanation of the operational objectives for the various wastewater parameters, i.e. sludge age, settleability, etc.

(f) A discussion of the detailed operation of each unit and description of various controls, recommended settings, fail-safe features, etc.

(g) A discussion of how the facilities are to be operated during anticipated startups and shutdowns, maintenance procedures, and less than design loading conditions, so as to maintain efficient treatment.

(h) A section on laboratory procedures including sampling techniques, monitoring requirements, and sample analysis.

(i) Recordkeeping procedures and sample forms to be used.

(j) A maintenance schedule incorporating manufacturer's recommendations, preventative maintenance and housekeeping schedules, and special tools and equipment usage.

(k) A section on safety.

(l) A section containing the spare parts inventory, address of local suppliers, equipment warranties, and appropriate equipment catalogues.

(m) Emergency plans and procedures.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-150, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-150, filed 1/23/79. Formerly chapter 372-20 WAC.]

DOMESTIC AND INDUSTRIAL WASTEWATER FACILITIES

WAC 173-240-160 Requirement for professional engineer. (1) All required engineering reports, and plans and specifications for the construction or modification of wastewater facilities shall be prepared under the supervision of a professional engineer licensed in accordance with chapter 18.43 RCW. All copies of these documents submitted to the department for review shall bear the seal of the professional engineer under whose supervision they have been prepared.

(2) Upon request of the owner, the department may waive the above requirement for construction or modification at industrial wastewater facilities.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-160, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-160, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-170 Right of inspection. Pursuant to RCW 90.48.090, the department or its authorized representative shall have the right to enter at all reasonable times in or upon any property, public or private, for the purposes of inspection or investigation relating to the pollution or possible pollution of the waters of the state, including the inspection of construction activities related to domestic or industrial wastewater facilities.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-170, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-170, filed 1/23/79. Formerly chapter 372-20 WAC.]

WAC 173-240-180 Approval of construction changes. All wastewater facilities subject to the provisions of this regulation shall be constructed in accordance with the plans and specifications approved by the department. Any contemplated changes during construction, which are significant deviations from the approved plans, shall first be submitted to the department for approval.

[Statutory Authority: Chapters 43.21A and 90.48 RCW. 83-23-063 (Order DE 83-30), § 173-240-180, filed 11/16/83. Statutory Authority: RCW 90.48.110. 79-02-033 (Order DE 78-10), § 173-240-180, filed 1/23/79. Formerly chapter 372-20 WAC.]

Chapter 173-245 WAC

SUBMISSION OF PLANS AND REPORTS FOR CONSTRUCTION AND OPERATION OF COMBINED SEWER OVERFLOW REDUCTION FACILITIES

WAC

173-245-010	Purpose and scope.
173-245-015	General requirements.
173-245-020	Definitions.

173-245-030	Submission of plans.
173-245-040	CSO reduction plan.
173-245-050	Plans and specifications.
173-245-055	Construction quality assurance plan.
173-245-060	Operation and maintenance manual.
173-245-070	Declaration of construction completion.
173-245-075	Form—Declaration of construction of water pollution control facilities.
173-245-080	Requirement for certified operator.
173-245-084	Ownership and operation and maintenance.
173-245-090	Schedule updates—Monitoring—Reporting.

WAC 173-245-010 Purpose and scope. This chapter establishes a procedure and criteria for implementing RCW 90.48.480 which requires "the greatest reasonable reduction of combined sewer overflows at the earliest possible date." It applies to municipalities whose sewer system includes combined sewer overflow (CSO) sites.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-010, filed 1/27/87.]

WAC 173-245-015 General requirements. (1) All CSO sites shall achieve and at least maintain the greatest reasonable reduction, and neither cause violations of applicable water quality standards, nor restrictions to the characteristic uses of the receiving water, nor accumulation of deposits which: (a) Exceed sediment criteria or standards; or (b) have an adverse biological effect.

(2) This chapter shall not negate specific CSO reduction projects, programs, and schedules which the department and a municipality have agreed upon prior to this chapter's effective date. However, the provisions of this chapter shall still apply.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-015, filed 1/27/87.]

WAC 173-245-020 Definitions. As used in this chapter:

(1) "At-site treatment" means treatment and discharge of combined sewage at the CSO site.

(2) "Baseline annual CSO volume and frequency" means the annual CSO volume and frequency which is estimated to occur based upon the existing sewer system and the historical rainfall record.

(3) "Best management practices" means use of those practices which will best reduce the amount of pollution caused by nonpoint sources so that pollutant loadings in combined and storm sewer flows during rainfall events are minimized.

(4) "Combined sewage" means the mixture of sanitary sewage, infiltration, and inflow.

(5) "Combined sewer" means a sewer which has been designed to serve as a sanitary sewer and a storm sewer, and into which inflow is allowed by local ordinance.

(6) "Combined sewer overflow (CSO)" means (a) the event during which excess combined sewage flow caused by inflow is discharged from a combined sewer, rather than conveyed to the sewage treatment plant because either the capacity of the treatment plant or the combined sewer is exceeded.

(7) "CSO reduction plan" means a comprehensive plan for attaining the greatest reasonable reduction of CSO's at the earliest possible date. The requirements for

a CSO reduction plan are as further described in this chapter.

(8) "Department" means the department of ecology.

(9) "Disinfection" means the selective destruction of disease-causing and bacterial indicator group organisms.

(10) "Domestic wastewater facilities" means any CSO treatment/control facility included under the definition of domestic wastewater facilities as defined in chapter 173-240 WAC.

(11) "In-line storage" means storage of sewage within the sewer pipes through the use of regulators and gates.

(12) "Infiltration" means the addition of ground water into a sewer through joints, the sewer material, cracks, and other defects.

(13) "Inflow" means the addition of rainfall-caused surface water drainage from roof drains, yard drains, basement drains, street catch basins, etc., into a sewer.

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

(15) "Off-line storage" means storage of sewage adjacent to the sewer pipe in a tank or other storage device.

(16) "Primary treatment" means any process which removes at least fifty percent of the total suspended solids from the waste stream, and discharges less than 0.3 ml/l/hr. of settleable solids.

(17) "Sanitary sewer" means a sewer which is designed to convey sanitary sewage and infiltration.

(18) "Sanitary sewage" means the mixture of domestic, commercial, and industrial wastewaters.

(19) "Secondary treatment" means any process which achieves the requirements of 40 CFR Part 133 as supplemented by state regulation and guidance.

(20) "Storm sewer" means a sewer which is designed to convey surface water drainage caused by rainfall.

(21) "Storm sewer/sanitary sewer separation" means construction of new storm sewers or new sanitary sewers so that sanitary sewage and surface drainage are conveyed in different sewers.

(22) "The greatest reasonable reduction" means control of each CSO such that an average of one untreated discharge may occur per year.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-020, filed 1/27/87.]

WAC 173-245-030 Submission of plans. Municipalities shall:

(1) Obtain the approval of the department for CSO reduction plans by January 1, 1988. This deadline may be extended by the department, when that authority is granted.

(2) Submit plans to the department at least sixty days prior to the time approval is desired.

(3) Incorporate CSO reduction plans into their respective general sewer plans and into plans for new or upgraded sewage treatment facilities.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-030, filed 1/27/87.]

WAC 173-245-040 CSO reduction plan. (1) The CSO reduction plan shall be sufficiently complete so

that plans and specifications can be developed from it for projects which may proceed into design within two years of plan submittal. Sufficient detail of any remaining projects shall be provided such that detailed engineering reports can be prepared in the future.

(2) CSO reduction plans shall include the following information together with any other relevant data as requested by the department.

(a) Documentation of CSO activity. Municipalities shall complete a field assessment and mathematical modeling study to establish each CSO's location, baseline annual frequency, and baseline annual volume; to characterize each discharge; and to estimate historical impact by:

(i) Flow monitoring and sampling CSO's. Monitoring and sampling at one or more CSO sites in a group which are in close proximity to one another shall be sufficient if the municipality can establish a consistent hydraulic and pollutant correlation between/among the group of CSO sites. Sampling may not be required for CSO sites which serve residential basins; and

(ii) Developing a rainfall/stormwater runoff/CSO model to simulate each CSO site's activity; and

(iii) Verifying the model's accuracy with data collected under (a)(i) of this subsection; and

(iv) In circumstances where an historical impact may be discernible, observing and sampling the receiving water sediments adjacent to each CSO site or group of sites to establish the presence and extent of any bottom deposits; and

(v) If the sewer service area upstream of a CSO site includes sanitary sewer sources other than domestic sewage, samples of the sediment deposits shall receive heavy metal analysis and organic pollutant screening. Pending review of results of these analyses, the department may require additional pollutant analyses. If two or more CSO sites serve the same industrial/commercial sources, sediment sampling adjacent to one representative CSO site may suffice.

(b) Analysis of control/treatment alternatives. Treatment/control alternatives, to achieve the greatest reasonable reduction at each CSO site, which shall receive consideration include but are not limited to:

(i) Use of best management practices, sewer use ordinances, pretreatment programs, and sewer maintenance programs to reduce pollutants, reduce infiltration, and delay and reduce inflow; and

(ii) In-line and off-line storage with at least primary treatment and disinfection at the secondary sewage treatment facility which is served by the combined sewer; or

(iii) Increased sewer capacity to the secondary sewage treatment facility which shall provide at least primary treatment and disinfection; or

(iv) At-site treatment equal to at least primary treatment, and adequately offshore submerged discharge. At site treatment may include a disinfection requirement at CSO sites which are near or impact water supply intakes, potentially harvestable shellfish areas, and primary contact recreation areas; or

(v) Storm sewer/sanitary sewer separation.

(c) Analysis of selected treatment/control projects. Municipalities shall do an assessment of the treatment/control project or combination of projects proposed for each CSO site. The assessment shall include:

(i) An estimation of the water quality and sediment impacts of any proposed treated discharge using existing background receiving water quality data, and estimated discharge quality and quantity. The department may require a similar analysis for proposed storm sewer outfalls for basins which drain industrial and/or commercial areas; and

(ii) An estimation of the selected projects' impacts on the quality of effluent from and operation of a municipality's secondary sewage treatment facility. During wet weather flow conditions, a municipality shall maximize the rate and volume of flows transported to its secondary sewage treatment facility for treatment. However, such flows shall not cause the treatment facility to exceed the pollutant concentration limits in its NPDES permit; and

(iii) The estimated construction and operation and maintenance costs of the selected projects; and

(iv) The general locations, descriptions, basic design data, sizing calculations, and schematic drawings of the selected projects and descriptions of operation to demonstrate technical feasibility; and

(v) An evaluation of the practicality and benefits of phased implementation; and

(vi) A statement regarding compliance with the State Environmental Policy Act (SEPA).

(d) Priority ranking. Each municipality shall propose a ranking of its selected treatment/control projects. The rankings shall be developed considering the following criteria:

(i) Highest priority shall be given to reduction of CSO's which discharge near water supply intakes, public primary contact recreation areas, and potentially harvestable shellfish areas;

(ii) A cost-effectiveness analysis of the proposed projects. This can include a determination of the monetary cost per annual mass pollutant reduction, per annual volume reduction, and/or per annual frequency reduction achieved by each project;

(iii) Documented, probable, and potential environmental impacts of the existing CSO discharges.

(e) Municipalities shall propose a schedule for achieving "the greatest reasonable reduction of combined sewer overflows at the earliest possible date." (RCW 90.48.480.) If the agreed upon schedule exceeds five years, municipalities shall propose an initial five-year program of progress towards achieving the greatest reasonable reduction. Factors which municipalities and the department shall use to determine compliance schedules shall include but not be limited to:

(i) Total cost of compliance;

(ii) Economic capability of the municipality;

(iii) Other recent and concurrent expenditures for improving water quality; and

(iv) The severity of existing and potential environmental and beneficial use impacts.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-040, filed 1/27/87.]

WAC 173-245-050 Plans and specifications. (1) The plans and specifications for a domestic wastewater facility are the detailed construction documents by which the owner or his contractor bid and construct the facility. The content and format of the plans and specifications shall be as stated in the state of Washington, "criteria for sewage works design," and shall include a listing of the facility design criteria and a plan for interim operation of facilities during construction.

(2) Plans and specifications for sewer line extensions shall include, as a separate report, an analysis of the existing collection and treatment systems ability to transport and treat additional flow and loading.

(3) Two copies of the plans and specifications shall be submitted to the department for approval prior to start of construction, excepting as waived under WAC 173-240-030(5). (See also, WAC 173-240-070.)

[Statutory Authority: RCW 90.48.035, 87-04-020 (Order DE 86-34), § 173-245-050, filed 1/27/87.]

WAC 173-245-055 Construction quality assurance plan. (1) Prior to construction a detailed plan must be submitted to the department showing how adequate and competent construction inspection will be provided.

(2) The construction quality assurance plan shall include:

(a) Construction schedule with a summary of planned construction activities, their sequence, interrelationships, durations, and terminations.

(b) Description of the construction management organization, management procedures, lines of communication, and responsibility.

(c) Description of anticipated quality control testing including type of test, frequency, and who will perform the tests.

(d) Description of the change order process including who will initiate change orders, as well as who will review, negotiate, and approve change orders.

(e) Description of the technical records handling methodology including where plans and specifications, as-built drawings, field orders, and change orders will be kept.

(f) Description of construction inspection program including inspection responsibility, anticipated inspection frequency, deficiency resolution, and inspector qualifications. (See also, WAC 173-240-075.)

[Statutory Authority: RCW 90.48.035, 87-04-020 (Order DE 86-34), § 173-245-055, filed 1/27/87.]

WAC 173-245-060 Operation and maintenance manual. (1) The proposed method of operation and maintenance of the domestic wastewater facility shall be stated in the engineering report or plans and specifications and approved by the department. The statement shall be a discussion of who will own, operate, and maintain the facility and what the staffing and testing requirements are. The owner shall follow the approved method of operation after the facility is constructed, unless changes have been approved by the department.

(2) In those cases where the facility includes mechanical components, a detailed operation and maintenance

manual shall be prepared prior to completion of construction. The purpose of the manual is to present technical guidance and regulatory requirements to the operator to enhance operation under both normal and emergency conditions. Two copies of the manual shall be submitted to the department for approval prior to completion of construction.

(3) In order to assure proper operation during construction and timely review and approval of the final operation and maintenance manual, a draft manual shall be submitted in the early stages of the construction of a facility. In addition, manufacturer's information on equipment must be available to the plant operator prior to unit start-up.

(4) The operation and maintenance manual shall include the following list of topics. For those projects funded by the environmental protection agency the manual shall also follow the requirements of the EPA publication, *Considerations for Preparation of Operation and Maintenance Manuals*.

(a) The assignment of managerial and operational responsibilities to include plant classification and classification of required operators.

(b) A description of plant type, flow pattern, operation, and efficiency expected.

(c) The principal design criteria.

(d) A process description of each plant unit, including function, relationship to other plant units, and schematic diagrams.

(e) A discussion of the detailed operation of each unit and description of various controls, recommended settings, fail-safe features, etc.

(f) A discussion of how the treatment facilities are to be operated during anticipated maintenance procedures, and under less than design loading conditions, if applicable, such as initial loading on a system designed for substantial growth.

(g) A section on laboratory procedures including sampling techniques, monitoring requirements, and sample analysis.

(h) Recordkeeping procedures and sample forms to be used.

(i) A maintenance schedule incorporating manufacturer's recommendations, preventative maintenance and housekeeping schedules, and special tools and equipment usage.

(j) A section on safety.

(k) A section stating the spare parts inventory, address of local suppliers, equipment warranties, and appropriate equipment catalogues.

(l) Emergency plans and procedures.

(5) In those cases where the facility does not include mechanical components, an operation and maintenance manual, which may be less detailed than that described in subsection (4) of this section, shall be submitted to the department for approval prior to completion of construction. The manual shall fully describe the treatment and disposal system and outline routine maintenance procedures needed for proper operation of the system. (See also, WAC 173-240-080.)

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-060, filed 1/27/87.]

WAC 173-245-070 Declaration of construction completion. (1) Within thirty days following acceptance by the owner of the construction or modification of a domestic wastewater facility, the professional engineer in responsible charge of inspection of the project shall submit to the department (a) one complete set of record drawings or as-builts (b) a declaration stating the facilities were constructed in accordance with the provisions of the construction quality assurance plan and without significant change from the department approved plans and specifications.

(2) The declaration will be furnished by the department and will be the same form as WAC 173-245-075, declaration of construction of water pollution control facilities. The submission of the declaration is not necessary for sewer line extensions where the local government entity has received approval of a general sewer plan and standard design criteria. (See also, WAC 173-240-090.)

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-070, filed 1/27/87.]

WAC 173-245-075 Form--Declaration of construction of water pollution control facilities.

DECLARATION OF CONSTRUCTION OF WATER POLLUTION CONTROL FACILITIES

Instructions:

- A. Upon completion, and prior to the use of any project or portions thereof, a professional engineer shall complete and sign this form, declaring that the project was constructed in accordance with the provisions of the construction quality assurance plan and with the plans and specifications and major change orders approved by the department of ecology.
- B. If a project is being completed in phased construction, a map shall be attached showing that portion of the project to which the declaration applies. A declaration of construction must be submitted for each phase of a project as it is completed. Additional declaration forms are available upon request from the department of ecology offices listed below.

NAME AND BRIEF DESCRIPTION OF PROJECT: -----

NAME OF OWNER ----- DOE PROJECT NO. -----

ADDRESS ----- DATE PROJECT OR
PHASE COMPLETED -----

CITY ----- STATE ----- ZIP -----

DOE PLAN AND
SPECIFICATION
APPROVAL DATE -----

I hereby declare that I am the project engineer of the above identified project and that said project was reviewed and observed by me or my authorized agent in accordance with the provisions of the construction quality assurance plan. I further declare that said project was to the best of my knowledge and information constructed and completed in accordance with the plans and specification and major change orders approved by the department of ecology and as shown on the owner's "as-built" plans.

----- SEAL
Signature or Professional Engineer
OF
DATE ----- ENGINEER

Please return completed form to the department of ecology office checked below.

- | | |
|--|---|
| <input type="checkbox"/> SW Regional Office
Department of Ecology
Mail stop LU-11
7272 Cleanwater Lane
Olympia, WA 98504 | <input type="checkbox"/> Central Regional Office
Department of Ecology
3601 W. Washington
Yakima, WA 98903 |
| <input type="checkbox"/> NW Regional Office
Department of Ecology
4350 150th Ave. NE
Redmond, WA 98052 | <input type="checkbox"/> Eastern Regional Office
Department of Ecology
East 103 Indiana Ave.
Spokane, WA 99207 |
| <input type="checkbox"/> Municipal Division
Department of Ecology
PV-11
Olympia, WA 98503 | |

(See also, WAC 173-240-095.)

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-075, filed 1/27/87.]

WAC 173-245-080 Requirement for certified operator. Each owner of a domestic wastewater treatment facility is required by chapter 70.95B RCW to have an operator, certified by the state, in responsible charge of the day to day operation of the facility. This requirement does not apply to a septic tank utilizing subsurface disposal. The certification procedures are set forth in chapter 173-230 WAC. (See also, WAC 173-240-100.)

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-080, filed 1/27/87.]

WAC 173-245-084 Ownership and operation and maintenance. (1) Domestic sewage facilities will not be approved unless ownership and responsibility for operation and maintenance is by a public entity except as provided in subsections (2) and (3) of this section. If a waste discharge permit is required it must be issued to the public entity. Nothing herein precludes a public entity from contracting operation and maintenance of domestic sewage facilities.

(2) Ownership by nonpublic entities may be approved if the department determines such ownership is in the public interest; provided there is an enforceable contract, approved by the department, between the nonpublic entity and a public entity with an approved sewer general

plan which will assure immediate assumption of the system under the following conditions:

(a) Treatment efficiency is unsatisfactory either as a result of plant capacity or physical operation; or

(b) If such assumption is necessary for the implementation of a general sewer plan.

(3) The following domestic wastewater facilities would not require public entity ownership, operation, and maintenance:

(a) Those facilities existing or approved for construction as of the effective date of this section, until such time as the facility is expanded to accommodate additional development.

(b) Those 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 commercial establishments for the purpose of this section. (See also, WAC 173-240-104.)

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-084, filed 1/27/87.]

WAC 173-245-090 Schedule updates--Monitoring--Reporting. (1) By the anniversary date of its sewage treatment plant NPDES permit, in conjunction with its annual assessment for prevention of facilities overloading where applicable, a municipality shall submit an annual CSO report to the department for review and approval which:

(a) Details the past year's frequency and volume of combined sewage discharged from each CSO site, or group of CSO sites in close proximity. Field monitoring shall be necessary to estimate these parameters. The report shall indicate whether a CSO site or group of sites has increased over the baseline annual condition. If any increase has occurred, the municipality shall propose a project and schedule to reduce that CSO site or group of sites to or below its baseline condition;

(i) When a CSO site has been reduced to an average of one overflow per year through use of storage or separation, the department may consider reducing the monitoring requirement to frequency verification;

(ii) If the selected CSO control project is at-site treatment and discharge, the department may issue a modification to the applicable sewage treatment plant permit or issue a separate NPDES permit for that discharge. The permit or permit modification shall include effluent limits, flow capacity limits, and reporting requirements. The total treated and untreated annual discharge from an at-site treatment plant shall not increase above the baseline annual;

(b) Explains the previous year's CSO reduction accomplishments; and

(c) Lists the projects planned for the next year.

(2) In conjunction with its application for renewal of its applicable NPDES permit, the municipality shall submit an amendment to its CSO reduction plan. The amendment shall include:

(a) An assessment of the effectiveness of the CSO reduction plan to date; and

(b) A reevaluation of the CSO sites' project priority ranking; and

(c) A listing of projects to be accomplished in the next five years based upon priorities and estimated revenues. The department of ecology may incorporate such schedule into an administrative order or the applicable NPDES permit.

[Statutory Authority: RCW 90.48.035. 87-04-020 (Order DE 86-34), § 173-245-090, filed 1/27/87.]

Chapter 173-250 WAC

CONSTRUCTION GRANTS PROGRAM--PRIORITY RATING SYSTEM AND PROJECT PRIORITY LIST

WAC

173-250-010	Purpose and scope.
173-250-020	Definitions.
173-250-030	Development and approval of the system.
173-250-040	Development and approval of the state project priority list.

WAC 173-250-010 Purpose and scope. The director shall publish a priority rating and ranking system annually which shall be used for the purpose of constituting a project priority list. The purpose of this chapter is to describe (1) the criteria to be considered when establishing the numerical rating parameters portion of the system, (2) the criteria to be considered when establishing the administrative and management ranking procedures portion of the system, (3) the process to be followed in seeking approval of the system, (4) how the system is to be used to constitute a project priority list, and (5) the process to be followed in seeking approval of the project priority list.

[Statutory Authority: RCW 43.21A.080. 78-09-067 (Order DE 78-11), § 173-250-010, filed 8/24/78.]

WAC 173-250-020 Definitions. For the purpose of this chapter:

(1) "Category of projects" means one of the following: (a) Secondary treatment, (b) more stringent treatment, (c) infiltration-inflow correction, (d) major sewer system rehabilitation, (e) new collection sewer and appurtenances, (f) new interceptors and appurtenances, (g) correction of combined sewer overflows and (h) subsurface disposal systems.

(2) "Director" means the director of the Washington state department of ecology, or his duly authorized representative.

(3) "Priority rating and ranking system" (hereinafter referred to as the system) means the process and criteria used by the department of ecology to rate and rank projects in the state that are considered eligible for assistance under the construction grants program. Ranking criteria include the administrative and management procedures for constituting and revising the project priority list.

(4) Project means any one of the following: (a) Facility planning (step 1), (b) design (step 2), (c) and construction (step 3).

(5) Project priority list means the annual list of rated and ranked projects for which federal and state grant assistance is expected during the five-year planning period starting at the beginning of the next federal fiscal year.

(6) Significant revisions means changes to the approved project priority list which effect the public-at-large.

(7) "Wastewater treatment works construction grants program" (hereinafter referred to as the construction grants program) means the federal funded program under Title II of Public Law 95-217 and the state funded program under chapter 43.83A RCW (Referendum 26) that provides for grants to public and private entities for the purpose of constructing or upgrading treatment works to meet the requirements of the state and federal water pollution control laws.

[Statutory Authority: RCW 43.21A.080, 78-09-067 (Order DE 78-11), § 173-250-020, filed 8/24/78.]

WAC 173-250-030 Development and approval of the system. (1) The director will establish project rating parameters which consider, but are not limited to, the following criteria:

(a) The severity of the pollution problem in navigable waters and ground waters;

(b) The existing population affected;

(c) The need for preservation of high quality waters;

(d) The need for protection of the public health by improving the sanitary condition of surface and underground waters; and

(e) Violation of state water quality standards and other enforceable provisions of Public Law 95-217.

(2) The director will establish project ranking procedures which consider, but are not limited to, the following criteria:

(a) Numerical rating of each project achieved in accordance with the priority rating criteria established under WAC 173-250-030(1);

(b) Readiness for grant award during the next federal fiscal year;

(c) Readiness for grant award during each of the ensuing four federal fiscal years following the next;

(d) Phasing of large dollar amount projects to allow for effective distribution of grant funds;

(e) A proper mix of projects which are ready for facility planning, design and construction;

(f) Determination of the priority to be given each category of projects;

(g) Total federal or state grant funds available during the next fiscal year and anticipated during each of the ensuing four fiscal years;

(h) The deadline for obligation of federal funds;

(i) Special needs of small and rural communities; and

(j) An identification of what constitutes significant revisions to the approved project priority list (including bypass, deletion or addition of projects).

(3) The system will be described each year and be the subject of an annual public hearing. Notice of this hearing shall appear in the state Register pursuant to chapter 34.08 RCW.

(4) A fact sheet describing the proposed system shall be developed by the director each year and be available to the public at the regional offices of the department of ecology at least fifteen days prior to the public hearing.

(5) After reviewing public comments the director will revise the proposed system as appropriate. A summary of state responses to public comment and to any public hearing testimony shall be prepared and made available for distribution to the public.

(6) The proposed system as published by the director shall be submitted each year to the Federal Environmental Protection Agency for approval.

[Statutory Authority: RCW 43.21A.080, 78-09-067 (Order DE 78-11), § 173-250-030, filed 8/24/78.]

WAC 173-250-040 Development and approval of the state project priority list. (1) A list of prospective projects will be developed using the municipal needs inventory, the NPDES permit files, and requests received from municipal entities, and information received from local and state health agencies.

(2) The director shall utilize the published system to constitute a project priority list as follows:

(a) Use the project rating parameters to generate a numerical score for each prospective project; and

(b) Use the project ranking procedures to constitute the project priority list.

(3) The fundable portion of the project priority list shall include those projects planned for award during the first year of the five-year planning period and shall not exceed the total federal funds expected to be available during the year less all applicable reserves provided for by federal regulations.

(4) Thirty days public notice shall be given that the project priority list will be the subject of a public hearing. Notice of this hearing shall appear in the state Register pursuant to chapter 34.08 RCW.

(5) The project priority list will be available to the public at the regional offices of the department of ecology, at least fifteen days prior to the public hearing.

(6) The public comments will be reviewed and the director shall approve the project priority list as proposed or as revised in accordance with public comments.

(7) The project priority list, as approved by the director, shall be submitted to the Federal Environmental Protection Agency for review to ensure compliance with the approved system.

(8) Significant revisions to the approved project priority list shall be the subject of the public notice and hearing process as set forth in WAC 173-250-040 (4), (5), (6), and (7).

[Statutory Authority: RCW 43.21A.080, 78-09-067 (Order DE 78-11), § 173-250-040, filed 8/24/78.]

Chapter 173-255 WAC
LIMITATIONS ON USE OF REFERENDUM 26
GRANT FUNDS FOR WATER POLLUTION
ABATEMENT

WAC

- 173-255-010 Purpose and scope.
- 173-255-020 Effective date.
- 173-255-030 Definitions.
- 173-255-040 Limitation of programs eligible for funding under Referendum Bill No. 26.
- 173-255-050 Limitation on grant awards within the municipal grants program.
- 173-255-060 Provision of guidelines.

WAC 173-255-010 Purpose and scope. The purpose of this chapter is to set forth the limitations on uses of moneys administered by the department of ecology pursuant to chapter 43.83A RCW (Referendum Bill No. 26). The limitations are necessary to insure that these funds will be used to their optimum extent to protect the resources and environment of the state of Washington and the health and safety of its people by providing adequate publicly owned facilities and systems for the collection, treatment and disposal of solid and liquid waste materials.

[Statutory Authority: RCW 43.21A.080. 78-09-066 (Order DE 78-12), § 173-255-010, filed 8/24/78.]

WAC 173-255-020 Effective date. All projects, or phases of projects, which have not received a federal or state grant award for design, before the effective date of this chapter will be subject to provisions contained herein.

[Statutory Authority: RCW 43.21A.080. 78-09-066 (Order DE 78-12), § 173-255-020, filed 8/24/78.]

WAC 173-255-030 Definitions. For the purpose of this chapter:

- (1) "Department" means the Washington state department of ecology.
- (2) "Agricultural pollution grants program" means the program of grants administered by the department for the planning, design and construction of publicly owned or operated agricultural pollution abatement facilities.
- (3) "Lake restoration grants program" means the program of state grants administered by the department for the planning, design and implementation of lake restoration projects.
- (4) "Marina pumpout grants program" means the program of state grants administered by the department for the design and construction of sewage pumpout facilities and dump stations at publicly owned or operated marinas.
- (5) "Municipal wastewater treatment works construction grants program" (hereinafter referred to as the construction grants program) means the federal/state matching program of grants under Title II of Public Law 95-217 to municipal entities for the purpose of upgrading their treatment works to meet the effluent requirements of state and federal law.

(6) "Water supply residual waste treatment works grants program" means the program of state grants administered by the department for the design and construction of pollution abatement facilities for publicly owned or operated water supply plants in existence on February 3, 1976, that discharge residual wastes to the waters of the state.

(7) "Individual systems" means privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to and inhabited on or before December 27, 1977, to abate an existing water pollution or public health problem.

(8) "Industrial cost recovery program" means the program established under Title II section 204(b) of the Federal Water Pollution Control Act Amendments (Public Law 92-217) to recover the cost of municipal treatment systems attributed to industrial users, when a municipal treatment system has been funded with federal funds under Title II.

(9) Industrial user:

(a) Any nongovernmental user of publicly owned treatment works which discharges more than twenty-five thousand gallons per day of sanitary waste, or a volume of process waste or combined process and sanitary waste, equivalent to twenty-five thousand gallons per day of sanitary waste.

(b) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.

(c) All commercial users of an individual system constructed with grant assistance under section 201(h) of the Clean Water Act of 1977 (P.L. 95-217).

(10) "Innovative and alternative technology projects" means those projects employing innovative and alternative wastewater treatment processes and techniques as defined by EPA guidelines in 40 CFR 35, Appendix E, and which are eligible for federal grants under 40 CFR 35.908 promulgated on April 25, 1978, or hereafter modified.

[Statutory Authority: RCW 43.21A.080. 78-09-066 (Order DE 78-12), § 173-255-030, filed 8/24/78.]

WAC 173-255-040 Limitation of programs eligible for funding under Referendum Bill No. 26. (1) The following programs shall be eligible for state matching grants in an amount not to exceed fifty percent of the total eligible cost of a project as determined by the department: The marina pumpout grants program, the water supply plant residual waste treatment works grants program, the lake restoration grants program, the state construction grants program and the agricultural pollution grants program. The department may authorize a matching grant less than fifty percent of the total eligible cost of a project in those cases where it would be in

the public interest, or where federal matching funds are available and it would be in the public interest to secure a local matching portion.

(2) The federal construction grants program may be eligible for state matching grants in an amount not to exceed fifteen percent of the total eligible cost of a project as determined by the department except as provided in WAC 173-255-050(1).

[Statutory Authority: RCW 43.21A.080. 80-08-050 (Order DE 80-24), § 173-255-040, filed 6/30/80; 78-09-066 (Order DE 78-12), § 173-255-040, filed 8/24/78.]

WAC 173-255-050 Limitation on grant awards within the municipal grants program. (1) The state matching grants for innovative and alternative technology projects shall be limited to nine percent which is the same portion of the nonfederal share as other types of projects funded under the construction grants program.

(2) Expenditure of funds under the provisions of chapter 43.83A RCW is limited to public bodies which are defined in the statute to mean any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. This provision and definition prohibits the expenditure of state funds for matching grants for, among others:

(a) Individual systems; and

(b) That portion of the construction of a municipal treatment works attributable to industrial users. Such portion is to be determined through the environmental protection agency's industrial cost recovery program.

[Statutory Authority: RCW 43.21A.080. 78-09-066 (Order DE 78-12), § 173-255-050, filed 8/24/78.]

WAC 173-255-060 Provision of guidelines. The department will publish guidelines which establish procedures, under each of the Referendum 26 grant programs, for the grant application and award process.

[Statutory Authority: RCW 43.21A.080. 78-09-066 (Order DE 78-12), § 173-255-060, filed 8/24/78.]

Chapter 173-303 WAC

DANGEROUS WASTE REGULATIONS

WAC

173-303-010	Purpose.
173-303-016	Identifying solid waste.
173-303-017	Recycling processes involving solid waste.
173-303-020	Applicability.
173-303-030	Abbreviations.
173-303-040	Definitions.
173-303-045	References to EPA's hazardous waste and permit regulations.
173-303-050	Department of ecology cleanup authority.
173-303-060	Notification and identification numbers.
173-303-070	Designation of dangerous waste.
173-303-071	Excluded categories of waste.
173-303-072	Procedures and bases for exempting and excluding wastes.
173-303-075	Certification of designation.

173-303-080	Dangerous waste lists.
173-303-081	Discarded chemical products.
173-303-082	Dangerous waste sources.
173-303-083	Infectious dangerous wastes.
173-303-084	Dangerous waste mixtures.
173-303-090	Dangerous waste characteristics.
173-303-100	Dangerous waste criteria.
173-303-101	Toxic dangerous wastes.
173-303-102	Persistent dangerous wastes.
173-303-103	Carcinogenic dangerous wastes.
173-303-104	Generic dangerous waste numbers.
173-303-110	Sampling and testing methods.
173-303-120	Recycled, reclaimed, and recovered wastes.
173-303-121	(Reserved.)
173-303-130	Containment and control of infectious wastes.
173-303-140	Land disposal restrictions.
173-303-141	Treatment, storage, or disposal of dangerous waste.
173-303-145	Spills and discharges into the environment.
173-303-150	Division, dilution, and accumulation.
173-303-160	Containers.
173-303-161	Overpacked containers (labpacks).
173-303-170	Requirements for generators of dangerous waste.
173-303-180	Manifest.
173-303-190	Preparing dangerous waste for transport.
173-303-200	Accumulating dangerous waste on-site.
173-303-201	Special accumulation standards.
173-303-202	Special requirements for generators of between two hundred twenty and two thousand two hundred pounds per month that accumulate dangerous waste in tanks.
173-303-210	Generator recordkeeping.
173-303-220	Generator reporting.
173-303-230	Special conditions.
173-303-240	Requirements for transporters of dangerous waste.
173-303-250	Dangerous waste acceptance, transport, and delivery.
173-303-260	Transporter recordkeeping.
173-303-270	Discharges during transport.
173-303-280	General requirements for dangerous waste management facilities.
173-303-281	Notice of intent.
173-303-283	Performance standards.
173-303-290	Required notices.
173-303-300	General waste analysis.
173-303-310	Security.
173-303-320	General inspection.
173-303-330	Personnel training.
173-303-340	Preparedness and prevention.
173-303-350	Contingency plan and emergency procedures.
173-303-360	Emergencies.
173-303-370	Manifest system.
173-303-380	Facility recordkeeping.
173-303-390	Facility reporting.
173-303-395	Other general requirements.
173-303-400	Interim status facility standards.
173-303-420	Siting standards.
173-303-430	(Reserved.)
173-303-440	(Reserved.)
173-303-500	Recycling requirements for state-only dangerous waste.
173-303-505	Special requirements for recyclable materials used in a manner constituting disposal.
173-303-510	Special requirements for dangerous wastes burned for energy recovery.
173-303-515	Special requirements for used oil burned for energy recovery.
173-303-520	Special requirements for reclaiming spent lead acid battery wastes.
173-303-525	Special requirements for recyclable material utilized for precious metal recovery.
173-303-550	Special requirements for facilities managing special waste.
173-303-560	Minimum standards for facilities managing special waste.
173-303-575	(Reserved.)
173-303-600	Final facility standards.
173-303-610	Closure and postclosure.

- 173-303-620 Financial requirements.
- 173-303-630 Use and management of containers.
- 173-303-640 Tank systems.
- 173-303-645 Ground water protection.
- 173-303-650 Surface impoundments.
- 173-303-655 Land treatment.
- 173-303-660 Waste piles.
- 173-303-665 Landfills.
- 173-303-670 Incinerators.
- 173-303-700 Requirements for the Washington state extremely hazardous waste management facility at Hanford.
- 173-303-800 Permit requirements for dangerous waste management facilities.
- 173-303-801 Types of dangerous waste management facility permits.
- 173-303-802 Permits by rule.
- 173-303-804 Emergency permits.
- 173-303-805 Interim status permits.
- 173-303-806 Final facility permits.
- 173-303-807 Trial burns for dangerous waste incinerator final facility permits.
- 173-303-808 Demonstrations for dangerous waste land treatment final facility permits.
- 173-303-809 Research, development and demonstration permits.
- 173-303-810 General permit conditions.
- 173-303-815 (Reserved.)
- 173-303-820 (Reserved.)
- 173-303-825 (Reserved.)
- 173-303-830 Permit changes.
- 173-303-840 Procedures for decision making.
- 173-303-845 Appeal of decision.
- 173-303-900 Public involvement and participation.
- 173-303-902 Citizen/proponent negotiations.
- 173-303-905 Response to requests for public records.
- 173-303-910 Petitions.
- 173-303-950 Violations and enforcement.
- 173-303-960 Special powers and authorities of the department.
- 173-303-9901 Flow chart for designating dangerous wastes.
- 173-303-9902 Narrative for designating dangerous wastes.
- 173-303-9903 Discarded chemical products list.
- 173-303-9904 Dangerous waste sources list.
- 173-303-9905 Dangerous waste constituents list.
- 173-303-9906 Toxic dangerous waste mixtures graph.
- 173-303-9907 Persistent dangerous waste mixtures graph.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-303-275 Transfer facilities (or collection facilities). [Statutory Authority: Chapter 70.105 RCW and RCW 70.95-.260. 82-05-023 (Order DE 81-33), § 173-303-275, filed 2/10/82.] Repealed by 84-14-031 (Order DE 84-22), filed 6/27/84. Statutory Authority: Chapter 70.105 RCW.
- 173-303-284 Notice of intent. [Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-284, filed 3/11/88.] Repealed by 88-18-083 (Order 88-29), filed 9/6/88. Statutory Authority: Chapter 70.105 RCW.
- 173-303-285 Location standards. [Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-285, filed 3/11/88.] Repealed by 88-18-083 (Order 88-29), filed 9/6/88. Statutory Authority: Chapter 70.105 RCW.
- 173-303-286 Performance standards. [Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-286, filed 3/11/88.] Repealed by 88-18-083 (Order 88-29), filed 9/6/88. Statutory Authority: Chapter 70.105 RCW.
- 173-303-901 Response to requests for public records. [Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-901, filed 3/11/88.] Repealed by 88-18-083 (Order 88-29), filed 9/6/88. Statutory Authority: Chapter 70.105 RCW.

WAC 173-303-010 Purpose. This regulation implements chapter 70.105 RCW, the Hazardous Waste Management Act of 1976 as amended in 1980 and 1983, and implements, in part, chapter 70.105A RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act, which the legislature has empowered the department to implement. The purposes of this regulation are to:

- (1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;
- (2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;
- (3) Provide the form and rules necessary to establish a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes;
- (4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;
- (5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;
- (6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and
- (7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-010, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-010, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-010, filed 2/10/82. Formerly WAC 173-302-010.]

WAC 173-303-016 Identifying solid waste. (1) Purpose and applicability.

- (a) The purpose of this section is to identify those materials that are and are not solid wastes.
- (b) (i) The definition of solid waste contained in this section applies only to wastes that also are dangerous for purposes of the regulations implementing chapter 70.105 RCW. For example, it does not apply to materials (such as nondangerous scrap, paper, textiles, or rubber) that are not otherwise dangerous wastes and that are recycled.
- (ii) This section identifies only some of the materials which are solid wastes and dangerous wastes under chapter 70.105 RCW. A material which is not defined as a solid waste in this section, or is not a dangerous waste identified or listed in this section, is still a solid waste and a dangerous waste for purposes of these sections if reason and authority exists under chapter 70.105 RCW and WAC 173-303-960. Within the constraints of chapter 70.105 RCW, this shall include but not be limited to any material that: Is accumulated, used, re-used, or handled in a manner that poses a threat to public health or the environment; or, due to the dangerous constituent(s) in it, when used or reused would pose a threat to public health or the environment.

(c) Certain materials are solid wastes but are excluded from the requirements of this chapter by WAC 173-303-071.

(2) The following terms are used and shall have the meanings as defined in WAC 173-303-040:

- (a) Boiler WAC 173-303-040(8)
- (b) By-product WAC 173-303-040(9)
- (c) Incinerator WAC 173-303-040(41)
- (d) Industrial furnace WAC 173-303-040(43)
- (e) Reclaim WAC 173-303-040(72)
- (f) Recover WAC 173-303-040(73)
- (g) Recycle WAC 173-303-040(74)
- (h) Used or reused WAC 173-303-040(77)
(see reuse or use)
- (i) Sludge WAC 173-303-040(81)
- (j) Scrap metal WAC 173-303-040(82)
- (k) Spent material WAC 173-303-040(83)

(3) Definition of solid waste.

(a) A solid waste is any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).

(b) A discarded material is any material which is:

- (i) Abandoned, as explained in subsection (4) of this section; or
- (ii) Recycled, as explained in subsection (5) of this section; or
- (iii) Considered inherently waste-like, as explained in subsection (6) of this section.

(4) Materials are solid waste if they are abandoned by being:

- (a) Disposed of; or
- (b) Burned or incinerated; or
- (c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(5) Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in (a) through (d) of this subsection.

(a) Used in a manner constituting disposal. Materials noted with a "*" in column 1 of Table 1 are solid wastes when they are:

- (i)(A) Applied to or placed on the land in a manner that constitutes disposal; or
- (B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-100 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(b) Burning for energy recovery. Materials noted with a "*" in column 2 of Table 1 are solid wastes when they are:

- (i)(A) Burned to recover energy;
- (B) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).
- (C) Contained in fuels (in which case the fuel itself remains a solid waste).

(ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-100 are not solid wastes if they are themselves fuels.

(c) Reclaimed. Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed.

(d)(i) Accumulated speculatively. Materials noted with a "*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

(ii) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under WAC 173-303-071 (3)(n) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

TABLE 1

	Use constituting disposal WAC 173-303- 016 (5)(a)	Energy recovery/ fuel WAC 173-303- 016 (5)(b)	Reclamation WAC 173-303- 016 (5)(c)	Speculative accumulation WAC 173-303- 016 (5)(d)
Spent materials	(*)	(*)	(*)	(*)
Commercial chemical products	(*)	(*)	_____	_____

TABLE 1

	Use constituting disposal WAC 173-303- 016 (5)(a)	Energy recovery/ fuel WAC 173-303- 016 (5)(b)	Reclamation WAC 173-303- 016 (5)(c)	Speculative accumulation WAC 173-303- 016 (5)(d)
By-products listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
Sludges listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—————	(*)
Sludges exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—————	(*)
Scrap metal	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in WAC 173-303-040.
¹ The characteristics of dangerous waste are described in WAC 173-303-090.
² The dangerous waste criteria are described in WAC 173-303-084 and 173-303-101 through 173-303-103.

(6) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(a) Dangerous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(b) The department will use the following criteria to add wastes to (a) of this subsection:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in WAC 173-303-9905 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health or the environment when recycled.

(7) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

[Statutory Authority: Chapter 70.105 RCW, 86-12-057 (Order DE-85-10), § 173-303-016, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-016, filed 6/27/84.]

WAC 173-303-017 Recycling processes involving solid waste. (1) The purpose of this section is to identify

those materials that are and are not solid wastes when recycled. Certain materials, as described in subsection (2) of this section, would not typically be considered to involve waste management and are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the recycling requirements of WAC 173-303-120.

(2) General categories of materials that are not solid waste when recycled.

(a) Except as provided in subsection (3) of this section, materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated without first being reclaimed. The material must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

(b) Except as provided in subsection (3) of this section, the department has determined that the following materials when used as described are not solid wastes:

(i) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process;

(ii) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(iii) Spent sulfuric acid used to produce virgin sulfuric acid.

(3) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (as described in subsection (2)(a) of this section):

(a) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii); or

(d) Materials listed in WAC 173-303-016(6); or

(e) Any materials that the department determines are being accumulated, used, reused or handled in a manner that poses a threat to public health or the environment.

(4) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(5) Variances from classification as a solid waste.

(a) In accordance with the standards and criteria in (b) of this subsection and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in WAC 173-303-016 (5)(d)(ii));

(ii) Materials that are reclaimed and then reused within the original primary production process in which they were generated;

(iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;

(iv) State-only dangerous materials (not regulated as hazardous wastes (defined in WAC 173-303-040(39)) by EPA) which serve as an effective substitute for a commercial product or raw material.

(b) Standards and criteria for variances from classification as a solid waste.

(i) The department may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The department's decision will be based on the following standards and criteria:

(A) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to

occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

(B) The reason that the applicant has accumulated the material for one or more years without recycling seventy-five percent of the volume accumulated at the beginning of the year;

(C) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

(D) The extent to which the material is handled to minimize loss;

(E) Other relevant factors.

(ii) The department may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(A) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

(B) The prevalence of the practice on an industry-wide basis;

(C) The extent to which the material is handled before reclamation to minimize loss;

(D) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

(E) The location of the reclamation operation in relation to the production process;

(F) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(G) Whether the person who generates the material also reclaims it;

(H) Other relevant factors.

(iii) The department may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

(A) The degree of processing the material has undergone and the degree of further processing that is required;

(B) The value of the material after it has been reclaimed;

(C) The degree to which the reclaimed material is like an analogous raw material;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The extent to which the reclaimed material is handled to minimize loss;

(F) Other relevant factors.

(iv) The department may grant requests for a variance from classifying as a solid waste those materials that

serve as an effective substitute for a commercial product or raw material, when such material is not regulated as hazardous waste (defined in WAC 173-303-040(39)) by EPA, if the materials are recycled in a manner such that they more closely resemble products or raw materials rather than wastes. This determination will be based on the following factors:

- (A) The effectiveness of the material for the claimed use;
 - (B) The degree to which the material is like an analogous raw material or product;
 - (C) The extent to which the material is handled to minimize loss or escape to the environment;
 - (D) The extent to which an end market for the re-claimed material is guaranteed;
 - (E) The time period between generating the material and its recycling;
 - (F) Other factors as appropriate.
- (6) Variance to be classified as a boiler.

In accordance with the standards and criteria in WAC 173-303-040(8) (definition of "boiler"), and the procedures in subsection (7) of this section the department may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in WAC 173-303-040(8), after considering the following criteria:

- (a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
 - (b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and
 - (c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
 - (d) The extent to which exported energy is utilized; and
 - (e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and
 - (f) Other factors, as appropriate.
- (7) Procedures for variances from classification as a solid waste or to be classified as a boiler.

The department will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed flame combustion devices as boilers:

- (a) The applicant must apply to the department. The application must address the relevant criteria contained in subsections (5)(b) or (6) of this section.
- (b) The department will evaluate the application and issue a draft public notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The department will accept comment on the tentative decision for thirty days, and may also hold a public hearing upon request or at its discretion. The department will issue a final decision after receipt of comments and after the hearing (if any), and this decision may not be appealed to the department.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-017, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-017, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-017, filed 6/27/84.]

WAC 173-303-020 Applicability. This chapter 173-303 WAC shall apply to all persons who handle dangerous wastes including, but not limited to:

- (1) Generators;
- (2) Transporters;
- (3) Owners and operators of dangerous waste recycling, transfer, storage, treatment, and disposal facilities; and
- (4) The operator of the state's extremely hazardous waste management facility.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-020, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-020, filed 2/10/82. Formerly WAC 173-302-020.]

WAC 173-303-030 Abbreviations. The following abbreviations are used in this regulation.

- (1) ASTM - American Society for Testing Materials
- (2) APHA - American Public Health Association
- (3) CDC - Center for Disease Control
- (4) CFR - Code of Federal Regulations
- (5) DOT - Department of Transportation
- (6) °C - degrees Celsius
- (7) DW - dangerous waste
- (8) DWS - drinking water standards of the Safe Drinking Water Act
- (9) EHW - extremely hazardous waste
- (10) EP - extraction procedure
- (11) EPA - Environmental Protection Agency
- (12) °F - degrees Fahrenheit
- (13) g - gram
- (14) IARC - International Agency for Research on Cancer
- (15) kg - kilogram (one thousand grams)
- (16) L - liter
- (17) lb - pound
- (18) LC₅₀ - lethal concentration 50 percent kill
- (19) LD₅₀ - lethal dose 50 percent kill
- (20) M - molar (gram molecular weights per liter of solution)
- (21) mg - milligram (one thousandth of a gram)
- (22) NFPA - National Fire Protection Association
- (23) NIOSH - National Institute for Occupational Safety and Health
- (24) pH - negative logarithm of the hydrogen ion concentration
- (25) POTW - publicly owned treatment works
- (26) ppm - parts per million (weight/weight)
- (27) RCRA - Resource Conservation and Recovery Act
- (28) RCW - Revised Code of Washington
- (29) TLM₉₆ - toxic limit median, 96 hours
- (30) TSD facility - transfer, treatment, storage, or disposal facility
- (31) UBC - Uniform Building Code
- (32) UFC - Uniform Fire Code

- (33) USCG – United States Coast Guard
- (34) USGS – United States Geological Survey
- (35) WAC – Washington Administrative Code
- (36) % – percent
- (37) # – number

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-030, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-030, filed 2/10/82. Formerly WAC 173-302-030.]

WAC 173-303-040 Definitions. When used in this regulation, the following terms have the meanings given below.

(1) "Active portion" means that portion of a facility which is not a closed portion (subsection (11) of this section), and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

(a) The effective date of the waste's designation by 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

(2) "Acutely hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column.

(3) "Aquatic LC₅₀" (same as TLm₉₆) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as *Lepomis macrochirus* (bluegill) or *Pimephales promelas* (flathead minnow), or cold water species such as salmonidae, when using the testing method described in WAC 173-303-110.

(4) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.

(6) "Batch" means any waste which is generated less frequently than once a month.

(7) "Berm" means the shoulder of a dike.

(8) "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(a)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery

section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(b) The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

(9) "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slugs or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(10) "Carcinogenic" means a material known to contain an IARC positive or suspected, human or animal carcinogen.

(11) "Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

(12) "Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

(13) "Compliance procedure" shall mean any proceedings instituted pursuant to the Hazardous Waste Disposal Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

(14) "Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

(15) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(16) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

(17) "Contract" means the written agreement signed by the department and the state operator.

(18) "Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter (including dangerous and extremely hazardous waste), while the abbreviation "DW" will refer to that part of the regulated universe which is dangerous only, and not extremely hazardous. (See also "extremely hazardous waste" and "hazardous waste" definitions.)

(19) "Department" means the department of ecology.

(20) "Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

(21) "Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste shipment and which is authorized pursuant to this chapter or RCRA to recycle or manage dangerous waste.

(22) "Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

(23) "Director" means the director of the department of ecology.

(24) "Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment. Release includes, but is not limited to, the actions of: Spilling, leaking, pumping, pouring, emitting, dumping, emptying, depositing, placing, or injecting.

(25) "Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

(26) "Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

(27) "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

(b) Meets the definition of tank, tank system, container, transport vehicle, or vessel.

(28) "EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

(29) "Extremely hazardous waste" means those dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

(30) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" shall be used interchangeably.

(31) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

(32) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

(33) "Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

(34) "Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

(35) "Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

(36) "Ground water" means water which fills voids below the land surface and in the earth's crust.

(37) "Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

(38) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103.

(39) "Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

(40) "Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

(a) The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(41) "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

(42) "Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(43) "Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy; cement kilns, lime kilns, aggregate kilns, phosphate kilns, blast furnaces, smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces), titanium dioxide chloride process oxidation reactors, coke ovens, methane reforming furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and pulping liquor recovery furnaces. The department may decide to add devices to this list on the basis of one or more of the following factors:

(a) The device is designed and used primarily to accomplish recovery of material products;

(b) The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

(c) The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

(d) The device burns or reduces raw materials to make a material product;

(e) The device is in common industrial use to produce a material product; and

(f) Other factors, as appropriate.

(44) "Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.

(45) "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours, kills

within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

(46) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

(47) "Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

(48) "Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(49) "Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

(50) "Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

(51) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(52) "Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

(53) "Major facility" means a facility or activity classified by the department as major.

(54) "Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

(55) (Reserved.)

(56) "NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

(57) "Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

(58) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

(59) "On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, shall be considered on-site travel if: (a) The travel crosses the right of way at a perpendicular intersection; or, (b) the right of way is controlled by the property owner and is inaccessible to the public.

(60) "Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

(61) "Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

(62) "Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

- (a) The department, pursuant to this chapter;
 - (b) United States EPA, pursuant to 40 CFR Part 270;
- or
- (c) Another state authorized by EPA, pursuant to 40 CFR Part 271.

(63) "Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

(64) "Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

(65) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(66) "Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

(67) "Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

(68) "Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

(69) "Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more benzene rings. For the purposes of this chapter, the PAH of concern for designation are only those PAH with more than three rings and less than seven rings.

(70) "Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

(71) "Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

(72) "Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

(73) "Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

(74) "Recycle" means to use, reuse, or reclaim a material.

(75) "Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

- (a) January 26, 1983 for wastes regulated by 40 CFR Part 261;

- (b) October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

- (c) The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

(76) "Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

(77) "Reuse or use" means to employ a material either:

- (a) As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

- (b) In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(78) "Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

(79) "Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

(80) "Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

(81) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

(82) "Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or

soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

(83) "Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

(84) "State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

(85) "Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

(86) "Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

(87) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(88) "Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

(89) "Thermal treatment" means the use of a device which uses primarily elevated temperatures to treat a dangerous waste.

(90) "TLM₉₆" means the same as "Aquatic LC₅₀".

(91) "Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

(92) "Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

(93) "Transfer facility" or "collection facility" means a facility at which dangerous waste shipments are collected, consolidated, and stored for more than ten days before transfer to a storage, treatment, or disposal facility.

(94) "Transportation" means the movement of dangerous waste by air, rail, highway, or water.

(95) "Transporter" means a person engaged in the off-site transportation of dangerous waste.

(96) "Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

(97) "Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

(98) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

(99) "Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

(100) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

(101) "Unsaturated zone" means the zone between the land surface and the water table.

(102) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

(103) "Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

(104) "Waste water treatment unit" means a device which:

(a) Is part of a waste water treatment facility which is subject to regulation under either:

(i) Section 402 or section 307(b) of the Federal Clean Water Act; or

(ii) Chapter 90.48 RCW, State Water Pollution Control Act, provided that any dangerous waste treated at the facility is designated only by this chapter 173-303 WAC and is not regulated as hazardous waste under 40 CFR Part 261; and

(b) Handles dangerous waste as defined in WAC 173-303-070 through 173-303-103 in either of the following manner:

(i) Receives and treats or stores an influent dangerous waste water; or

(ii) Generates and accumulates or treats or stores a dangerous waste water treatment sludge; and

(c) Meets the definition of tank or tank system in WAC 173-303-040.

(105) "Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state and local statutes, regulations and ordinances and either:

(a) A continuous on-site, physical construction program has begun; or

(b) The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(106) "New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40

CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(107) "Special waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a special waste.

(108) "Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

(109) "Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility unless subject to the provisions in WAC 173-303-200.

(110) "Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-670 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

(111) "Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(112) "Aboveground tank" means a device meeting the definition of "tank" in subsection (88) of this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

(113) "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

(114) "Component" means either the tank or ancillary equipment of a tank system.

(115) "Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(116) "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

(a) A continuous on-site physical construction or installation program has begun; or

(b) The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

(117) "Inground tank" means a device meeting the definition of "tank" in subsection (88) of this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

(118) "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

(119) "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

(120) "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

(121) "Onground tank" means a device meeting the definition of "tank" in subsection (88) of this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

(122) "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities.

(123) "Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

(124) "Underground tank" means a device meeting the definition of "tank" in subsection (88) of this section whose entire surface area is totally below the surface of and covered by the ground.

(125) "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

(126) "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to ground water or surface water.

(127) "Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

(128) "Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

Any terms used in this chapter which have not been defined in this section shall have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else shall have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-040, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-040, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-040, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-040, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-040, filed 2/10/82. Formerly WAC 173-302-040.]

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, shall be in reference to those rules as they existed on October 1, 1988, with the exception of rules adopted by EPA pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), Public Law 98-616, amending RCRA. Copies of the appropriate referenced federal requirements are available upon request from the department.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-045, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-045, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-045, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-045, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-045, filed 2/10/82.]

WAC 173-303-050 Department of ecology cleanup authority. The department may conduct or contract for the removal of dangerous wastes or hazardous substances where there has been or is a potential for discharge or release, regardless of quantity or concentration, which could pose a threat to public health or the environment.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-050, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-050, filed 2/10/82. Formerly WAC 173-302-060.]

WAC 173-303-060 Notification and identification numbers. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility shall have a current EPA/state identification number (EPA/state ID#). Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility which does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled or withdrawn, shall be in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received his ID#, must notify the department by obtaining and completing a Washington state notification of dangerous waste activities, Form 2, and submitting the completed form to the department. Any person already assigned an EPA/state ID# must submit a revised notification Form 2 to the department prior to any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity. Any change in location will require the issuance of a new EPA/state ID#. An EPA/state ID# may not be used at new company locations. Notification of dangerous waste activities, Form 2 and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in

the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that his ID# be cancelled if he will no longer occupy the site. Notification must be in writing. An EPA/state ID# shall be considered cancelled only after issuance of written confirmation by the department and when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(5) Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-220, and 173-303-390. Any person that has withdrawn or cancelled their ID# and received confirmation from the department must submit an annual report for the calendar year in which their request was approved.

[Statutory Authority: Chapter 70.105 RCW, 87-14-029 (Order DE-87-4), § 173-303-060, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-060, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-060, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW, 82-05-023 (Order DE 81-33), § 173-303-060, filed 2/10/82.]

WAC 173-303-070 Designation of dangerous waste.

(1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not his solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that his waste is designated DW or EHW shall be subject to all applicable requirements of this chapter.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i)(A) It does not exhibit any of the characteristics of WAC 173-303-090; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083 which has been exempted pursuant to WAC 173-303-910(3); or

(ii) If originally designated only through WAC 173-303-084 or 173-303-101 through 173-303-103, it does not exhibit any of the criteria of WAC 173-303-101 through 173-303-103.

Such solid waste shall include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the

criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(3) Designation procedures.

(a) To determine whether or not his waste is designated a person shall check his waste against the following sections, and in the following order:

(i) First, Discarded chemical products, WAC 173-303-081;

(ii) Second, Dangerous waste sources, WAC 173-303-082;

(iii) Third, Infectious dangerous wastes, WAC 173-303-083;

(iv) Fourth, Dangerous waste mixtures, WAC 173-303-084; and

(v) Last, Dangerous waste characteristics, WAC 173-303-090.

(b) In addition to the designation procedures specified in (a) of this subsection, a person may choose or may be required under subsection (4) of this section to check his waste against the following sections, and in the following order:

(i) First, Toxic dangerous wastes, WAC 173-303-101;

(ii) Second, Persistent dangerous wastes, WAC 173-303-102;

(iii) Last, Carcinogenic dangerous wastes, WAC 173-303-103.

(c) A person shall check each section, in the order set forth, until he determines that his waste is designated. Once his waste is designated through the lists, mixtures or characteristics, he need not determine any other designations for his waste, except as required by subsection (4) or (5) of this section. For the purposes of designating through the criteria, if a person determines that his waste is designated DW, then he must assure that it is not also EHW by checking it against the remaining sections. If the designation procedures identify a waste as both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for EP toxicity), the waste must be designated EHW. If a person has checked his waste against each section that he is required by this section to check and his waste is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW shall comply with the requirements of WAC 173-303-072.

(4) Criteria designation required. Notwithstanding any other provisions of this chapter, the department may require any person to determine whether or not his waste is designated under the dangerous waste criteria, WAC 173-303-100 through 173-303-103, if the department has reason to believe that his waste would be designated DW or EHW by the dangerous waste criteria, or if the

department has reason to believe that his waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW by the criteria). If a person, pursuant to the requirements of this subsection, determines that his waste is a dangerous waste or that its designation must be changed, then he shall be subject to the applicable requirements of this chapter 173-303 WAC. The department shall base a requirement to designate a waste by the dangerous waste criteria on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another person's already designated DW or EHW;

(c) Evidence that the person's waste has historically been a DW or EHW; or

(d) Evidence or information about a person's manufacturing materials or processes which indicate that his wastes may be DW or EHW.

(5) Special knowledge. If a generator has designated his waste under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or mixtures, WAC 173-303-084, and has knowledge that his waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that his waste also meets any of the dangerous waste criteria, WAC 173-303-101 through 173-303-103, or both, then he shall also designate his waste in accordance with those dangerous waste characteristics, or criteria, or both.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, he shall use all the dangerous waste numbers which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria. For example, if his waste is ignitable *and* contains extremely hazardous concentrations of halogenated hydrocarbons, he shall use the dangerous waste numbers of D001 and WP01. This shall not be construed as requiring a person to designate his waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is fully subject to the requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to certain requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste identified by this chapter. In such cases, the person must consider the aggregate quantity of his wastes when determining whether or not his waste amounts exceed the specific quantity exclusion limits

(QEL). Waste quantities must be aggregated for all wastes with common QEL's. For the purposes of this subsection, when aggregating waste quantities, a person shall include in his calculation dangerous wastes produced by on-site treatment or recycling of dangerous wastes and dangerous wastes being accumulated or stored. For example, if a person generates, accumulates, or stores 300 pounds of an ignitable waste and 300 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (600 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates, accumulates, or stores one pound of an EHW discarded chemical product and 300 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). Additional guidance on aggregating waste quantities is available from the department.

(c) The following are categories of waste that are excluded from the quantity determination and need not be aggregated as required by (b) of this subsection when calculating total waste quantities.

(i) Dangerous waste that is recycled and that is excluded from regulation under WAC 173-303-120 (2)(a), (3)(d) or (e) is not included in the quantity determinations of this section and is not subject to any requirements of this section.

(ii) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(8) Small quantity generators.

(a) A person is a small quantity generator and is subject to the requirements of this subsection if his waste is designated under subsection (3) of this section, and the quantity of waste that he generates, accumulates, or stores (or the aggregated quantity if he generates more than one kind of waste) does not exceed the quantity exclusion limit for such waste (or wastes). If a person generates, accumulates, or stores any dangerous wastes that exceed the QEL, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter. A small quantity generator who generates, accumulates, or stores waste in excess of the quantity exclusion limit and becomes subject to the full requirements of this chapter cannot again be a small quantity generator until after all dangerous waste on-site at the time he became fully regulated have been removed, treated, or disposed.

(b) A small quantity generator will not be subject to the requirements of this chapter if he:

(i) Complies with subsections (1), (2), (3), and (4) of this section; and

(ii) Either treats or disposes of his dangerous waste in an on-site facility, or ensures delivery to an off-site facility, either of which is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage municipal or industrial solid waste in accordance with state or local regulations, or in accordance with another state's solid waste laws if the waste is sent out of state; or

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims his dangerous waste, or that treats his waste prior to such recycling activities; and

(iii) Submits an annual report in accordance with WAC 173-303-220 if he has obtained an EPA/state identification number pursuant to WAC 173-303-060.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-070, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-070, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-070, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-070, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-070, filed 2/10/82.]

WAC 173-303-071 Excluded categories of waste.

(1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter shall comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050:

(a) Domestic sewage, and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works (POTW) for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system. This exclusion does not apply to the generation, treatment, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not

apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment;

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes which are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas);

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-084(6) or 173-303-102. For the purposes of this exclusion, asphaltic materials means materials intended and used for structural and construction purposes (e.g., roads, dikes, paving) which are produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Waste wood or wood products treated with preservatives if the waste is generated by persons who utilize the treated wood or wood products for these materials' intended end use;

(h) Irrigation return flows;

(i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when, using EPA's PCB testing method 600/4-81-045, the waste can be shown to contain less than one part per million (ppm) PCB or when, using ASTM method D 4059-86, the waste can be shown to contain less than two parts per million (ppm) PCB;

(iii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are:

(A) Stored in a manner equivalent to the requirements of 40 CFR 761.65; and

(B) Within one year of removal from service, disposed of either in an incinerator that complies with 40 CFR 761.70, in a chemical waste landfill that complies with 40 CFR 761.75, in a high efficiency boiler that complies with 40 CFR 761.60 (a)(2)(iii) or (a)(3)(iii), or in a facility otherwise approved in accordance with 40 CFR 761.60(e);

(l) Samples:

(i) Except as provided in (1)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemption in (1)(i)(A) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (1)(i) of this subsection;

(m) Asbestos wastes or asbestos containing wastes which would be designated only as respiratory carcinogens by WAC 173-303-084 or 173-303-103, and any other inorganic wastes which are designated only under WAC 173-303-084 or 173-303-103 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the asbestos management procedures of 40 CFR Part 61;

(n) Dangerous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100 through 173-303-103) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(v), (vi), (vii), (viii), or (ix);

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) The generator ensures that any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials are delivered to a dangerous waste treatment, storage, or disposal facility or legitimate recycler. The generator must be able to provide documentation of such delivery. If the generator can demonstrate that the residues do not exhibit any of the dangerous waste characteristics (WAC 173-303-090) and criteria (WAC 173-303-100 through 173-303-103), then he is exempt from the requirements of this condition in this item (v).

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040(112) are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and

shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 1000 kg of any dangerous waste, 1 kg of acutely hazardous waste, or 250 kg of soils, water, or debris contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 1000 kg of dangerous waste, 1 kg of acutely hazardous waste, or 250 kg of soils, water, or debris contaminated with acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in (r)(ii)(A) of this subsection, for up to an additional 500 kg of nonacute hazardous waste, 1 kg of acute hazardous waste, and 250 kg of soils, water, or debris contaminated with acute hazardous waste, to

conduct further treatability study evaluation when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to all the provisions in (r)(i) and (ii)(B) of this subsection. The generator or sample collector must apply to the department in the state where the sample is collected and provide in writing the following information:

(A) The reason the generator or sample collector requires additional quantity of sample for the treatability study evaluation and the additional quantity needed;

(B) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were on MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 250 kg of "as received" dangerous waste is subjected to initiation of treatment in

all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the laboratory or testing facility for the purpose of evaluation in treatability studies does not exceed 1000 kg, the total of which can include 500 kg of soils, water, or debris contaminated with acutely hazardous waste or 1 kg of acutely hazardous waste. This quantity limitation does not include:

(A) Treatability study residues; and

(B) Treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping paper associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-071, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-071, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-071, filed 6/3/86; 85-09-042 (Order DE-85-02), § 173-303-071, filed 4/15/85; 84-09-088 (Order DE 83-36), § 173-303-071, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-071, filed 2/10/82.]

WAC 173-303-072 Procedures and bases for exempting and excluding wastes. (1) Purpose and applicability.

(a) The purpose of this section is to describe the procedures that will be followed by generators and the department when wastes are considered for exemption or exclusion from the requirements of this chapter. Any person(s) whose waste is exempted or excluded will not be subject to the requirements of this chapter unless the department revokes the exemption or exclusion.

(b) Any person seeking a waste exemption must submit a petition to the department according to the procedures of WAC 173-303-910(3). A petition for exemption will be assessed against the applicable bases for exemption described in subsections (3), (4), and (5) of this section.

(c) Any persons seeking to categorically exclude a class of wastes must submit a petition to the department according to the procedures of WAC 173-303-910(4).

A petition for exclusion will be assessed against the applicable bases for exclusion described in subsection (6) of this section.

(2) Department procedures. When considering, granting, or denying a petition for exemption or exclusion, the department shall follow the appropriate procedures described in WAC 173-303-910(1).

(3) Bases for exempting wastes. To successfully petition the department to exempt a waste, the petitioner must demonstrate to the satisfaction of the department that:

(a) He has been able to accurately describe the variability or uniformity of his waste over time, and has been able to obtain demonstration samples which are representative of his waste's variability or uniformity; and, either

(b) The representative demonstration samples of his waste are not designated DW or EHW by the dangerous waste criteria, WAC 173-303-100 through 173-303-103; or

(c) It can be shown, from information developed by the petitioner through consultation with the department, that his waste does not otherwise pose a threat to public health or the environment, except that this basis for exemption is not applicable to wastes which exhibit any of the characteristics specified in WAC 173-303-090.

(4) Additional bases for exempting listed wastes. In addition to the demonstrations required by subsections (3)(a) and (b) of this section, for wastes listed in WAC 173-303-081 or 173-303-082 the petitioner must also demonstrate to the satisfaction of the department that his waste is not capable of posing a substantial present or potential threat to public health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The following factors will be considered by the department when assessing such a demonstration:

(a) Whether or not the listed waste contains the constituent or constituents which caused it to be listed. (For the purposes of this subsection, the constituents referred to will include any of the dangerous waste constituents listed in WAC 173-303-9905);

(b) The nature of the threat posed by the waste constituent(s);

(c) The concentration of the constituent(s) in the waste;

(d) The potential of the constituent(s) or any degradation product of the constituent(s) to migrate from the waste into the environment under the types of improper management considered in (h) of this subsection;

(e) The persistence of the constituent(s) or any degradation product of the constituent(s);

(f) The potential for the constituent(s) or any degradation product of the constituent(s) to degrade into nonharmful constituents and the rate of degradation;

(g) The degree to which the constituent(s) or degradation product of the constituent(s) bioaccumulates in ecosystems;

(h) The plausible types of improper management to which the waste could be subjected;

(i) The quantities of the waste generated at individual generation sites or on a state-wide basis. Under this factor, the department will also consider whether or not the waste is listed under WAC 173-303-081 as a discarded chemical product and occurs in a relatively pure form. Any waste discarded chemical product which exceeds the quantity exclusion limit specified in WAC 173-303-081(2) for that waste will not be exempted;

(j) The nature and severity of the public health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent(s);

(k) Actions taken by other governmental agencies or regulatory programs based on the health or environmental threat posed by the waste or waste constituent(s); and

(l) Such other factors as may be appropriate.

(5) Bases for exempting wastes designated solely for the presence of chromium. The department will exempt a waste which is designated because of the presence of chromium if the petitioner can demonstrate that:

(a) The waste is not designated for any other characteristic under WAC 173-303-090, or for any of the criteria specified in WAC 173-303-101, 173-303-102 or 173-303-103;

(b) The waste is not listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium;

(c) The waste is typically and frequently managed in nonoxidizing environments or under nonoxidizing conditions; and

(d) Either of the following demonstrations can be made:

(i) The waste is generated from a process which uses trivalent chromium exclusively (or nearly exclusively), the process does not generate hexavalent chromium, and the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; or

(ii) Under test procedures approved by the department, the EP extract of the waste can be shown to contain less than five milligrams per liter (5 mg/L) of hexavalent chromium.

(6) Bases for categorically excluding classes of wastes. This subsection does not apply to any waste class that includes hazardous waste regulated under 40 CFR Part 261. To successfully petition the department to categorically exclude a class of wastes, petitioners must demonstrate to the satisfaction of the department that the petition or petitions for exclusion:

(a) Accurately describe the class of wastes for which categorical exclusion is sought and show that the class of wastes does not include any wastes which would be regulated as hazardous waste under 40 CFR Part 261;

(b) Describe the variability or uniformity of the class of wastes over time and in relation to the individual wastes that comprise the class of waste;

(c) Discuss the generators and their individual wastes that belong to the class of wastes and, to the extent practical, any generators or individual wastes that, although belonging to the class of wastes, are not represented by the petition or petitions; and

(d) For each individual waste within the class of wastes, provide the demonstration described by subsection (3) of this section, except that where it is determined by consultation with the department to be impractical to provide the demonstration for each individual waste, the petitioner or petitioners shall provide the demonstration for samples of the individual wastes determined by consultation with the department to be representative of the class of wastes.

[Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-072, filed 6/27/84.]

WAC 173-303-075 Certification of designation. (1) Purpose and applicability.

(a) The purpose of WAC 173-303-075 is to establish procedures by which the generator of a solid waste may apply to the department for a review of his waste, and for a determination of the designation of his waste. When a final determination is made, the department shall issue a certificate of designation which shall describe the status of the generator's waste with respect to the designation requirements of this chapter 173-303 WAC.

(b) The provisions of this section are applicable to any person who produces a solid waste, who may be subject to the requirements of this chapter 173-303 WAC as the generator of a dangerous waste and who wishes to obtain a certificate designating the status of his waste.

(2) Certification. Any person who produces a solid waste which could be a dangerous waste may apply to the department, in accordance with the guidelines published pursuant to WAC 173-303-075(4), for a certificate of designation for his waste.

(a) The certificate of designation will describe the status of the designation for a waste or wastes as follows:

(i) Either, the certificate will state that the waste or wastes listed in the certificate are designated dangerous waste; or

(ii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the designation lists or characteristics of WAC 173-303-080 through 173-303-090; or

(iii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the dangerous waste lists, characteristics or criteria, WAC 173-303-080 through 173-303-103.

(b) The certificate of designation will, at a minimum, include the following information:

(i) The name, address, telephone number and, where applicable, the EPA/state identification number of the person to whom the certificate is issued;

(ii) A statement of the status of the designation of the waste or wastes listed in the certificate and, if designated, whether DW or EHW;

(iii) A listing of the waste or wastes for which the certificate has been issued;

(iv) The signature of the director or his designee;

(v) The date on which the certificate was issued; and

(vi) The period of time or conditions for which the certificate is valid.

(c) Once a certificate of designation has been issued to a person, that person is no longer subject to the designation procedures of WAC 173-303-080 through 173-303-103, unless the period of time for which the certificate is valid expires, the conditions under which the certificate is valid change, or the department withdraws its certification of designation in accordance with WAC 173-303-075(5). If the certificate states that the waste or wastes listed in it are designated, then the person to whom the certificate is issued shall comply with all applicable requirements of this chapter 173-303 WAC. If the certificate states that the waste or wastes listed in it are not designated, then the person to whom the certificate is issued is not subject to the requirements of this chapter 173-303 WAC, unless the certificate becomes invalid or the department withdraws its certification.

(d) While an application for a certificate of designation is pending final action by the department, the person applying for certification must comply with all applicable requirements of this chapter 173-303 WAC.

(e) While a certificate of designation is being amended, in accordance with WAC 173-303-075(5), the certificate shall remain in effect except for those parts of the certificate which the department specifically suspends.

(3) Designation. Determination of the status of designation for a waste or wastes for which a certificate of designation is being sought shall follow the procedures set forth in this subsection.

(a) A waste shall be certified as a dangerous waste if it is designated under any of the methods set forth in WAC 173-303-080 through 173-303-103.

(b) A waste shall be certified as not a dangerous waste if:

(i) It has only been checked against WAC 173-303-080 through 173-303-090 (lists and characteristics) and it is not designated; or

(ii) It has been checked against the dangerous waste lists, characteristics and criteria, WAC 173-303-080 through 173-303-103, and it is not designated.

(4) Application. Any person who wishes to apply for a certificate of designation shall do so according to the certification guidelines published by and available from the department. The department shall follow the procedures specified in the certification guidelines when considering an application for a certificate.

(5) Review of certification. Review of and changes to or withdrawal of certificates of designation shall be performed by the department according to the procedures specified in the certification guidelines, available from the department. At a minimum, the certification guidelines provide for the following procedures:

(a) The department will periodically review each certificate of designation to insure that it is current and accurately states the proper designation for the waste or wastes listed on the certificate.

(b) The department may amend, or any person with a certificate of designation may request the department to amend, any certificate in the event that changes to the certificate are necessary to keep it current or maintain

its accuracy. The person will obtain concurrence of the department if he wishes to amend his certificate to reflect changes in the information on the certificate (e.g., new wastes, changes in waste properties, changes of address, etc.).

(c) The department reserves the authority to withdraw any certificate of designation if there is reason to believe that the certificate results in a threat to public health or the environment. If a certificate is withdrawn, then the waste or wastes listed on the certificate shall be subject to all applicable requirements of this chapter 173-303 WAC.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-075, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-075, filed 2/10/82.]

WAC 173-303-080 Dangerous waste lists. The dangerous waste lists include:

- (1) WAC 173-303-081, Discarded chemical products;
- (2) WAC 173-303-082, Dangerous waste sources.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-080, filed 1/4/89. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-080, filed 2/10/82.]

WAC 173-303-081 Discarded chemical products.

(1) A waste shall be designated as a dangerous waste if it is handled in any of the manners described in (e) of this subsection, and if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) Any containers or inner liners that have been used to hold any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the acutely dangerous chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty and have been triple rinsed as described in WAC 173-303-160(2);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(e) The materials or items described in (a), (b), (c), and (d) of this subsection are dangerous wastes when they are:

(i) Discarded or intended to be discarded as described in WAC 173-303-016 (3)(b)(i);

(ii) Burned for purposes of energy recovery in lieu of their original intended use;

(iii) Used to produce fuels in lieu of their original intended use;

(iv) Applied to the land in lieu of their original intended use; or

(v) Contained in products that are applied to the land in lieu of their original intended use.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated EHW;

(ii) For chemicals and for residues from the cleanup of spills involving chemicals designated on the moderately dangerous chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch unless the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160(2);

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated EHW.

(b) A person's total monthly waste quantity shall be the sum of all his wastes which share a common quantity exclusion limit (e.g., the total quantity of all EHW discarded chemical products, the total quantity of all residues contaminated by EHW discarded chemical products, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product dangerous waste shall be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture shall be designated. The mixture designation shall be the same as the designation for the discarded chemical product which was mixed with the solid waste. For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004; EHW designation) and 22 lbs. (10 kg) of a solid waste, would

be designated as an EHW, and would have the dangerous waste number P004.

(4) For the purposes of this chapter, the term "acutely hazardous waste" shall include discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-081, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-081, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-081, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-081, filed 2/10/82.]

WAC 173-303-082 Dangerous waste sources. (1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste which is listed or which is a residue from the management of a waste listed on the dangerous waste sources list shall be designated a dangerous waste, and shall be identified as DW, except that WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW.

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. For the purposes of this chapter, the term "acutely hazardous waste" shall include dangerous waste sources F020, F021, F022, F023, F026, and F027;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture shall be designated as a dangerous waste source. The mixture shall have the same designation (DW or EHW), and shall have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-082, filed 6/26/87; 86-12-057 (Order DE-85-10),

§ 173-303-082, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-082, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-082, filed 2/10/82.]

WAC 173-303-083 Infectious dangerous wastes. (Reserved.)

[Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-083, filed 2/10/82.]

WAC 173-303-084 Dangerous waste mixtures. (1) Purpose. It is the purpose of this section to describe the means for designating a waste mixture containing dangerous wastes which are not listed in WAC 173-303-081 through 173-303-083.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) *Registry of Toxic Effects of Chemical Substances* (Registry) is adopted by reference. The table in the United States EPA's regulations 40 CFR Table 302.4 (Spill Table) is adopted by reference.

(3) Waste mixture defined. For the purposes of this section, a waste mixture shall be any waste about which some or all of its constituents and concentrations are known, and which has not been designated as:

(a) A discarded chemical product under WAC 173-303-081;

(b) A dangerous waste source under WAC 173-303-082;

(c) An infectious dangerous waste under WAC 173-303-083; or

(d) A dangerous waste that has been designated by the criteria of WAC 173-303-101 through 173-303-103.

(4) A person who has a waste mixture shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH Registry and/or to the EPA Spill Table to determine:

(a) Toxicity data or category for each known constituent in his waste;

(b) Whether or not each known constituent of his waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings; and,

(c) Whether or not each known constituent of his waste is an International Agency for Research on Cancer (IARC) human or animal, positive or suspected carcinogen.

(5) Toxicity.

(a) If a person has toxic constituents in his waste, he shall determine the toxic category for each known toxic constituent. The toxic category for each constituent may be determined directly from EPA'S Spill Table, or by obtaining data from the NIOSH Registry and checking this data against the toxic category table, below. If data is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If toxicity data for a constituent cannot be found in EPA'S

Spill Table, NIOSH Registry, or other source reasonably available to a person, then he need not determine the toxic category for that constituent.

TOXIC CATEGORY TABLE

Category	TLm ₉₆ (Fish) or, Aquatic (Fish) LC ₅₀ (ppm)	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	< 2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) A person whose waste mixture contains one or more toxic constituents shall determine the equivalent concentration for his waste from the following formula:

$$\text{Equivalent Concentration(\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where $\Sigma(X,A,B,C, \text{ or } D) \%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste mixture contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{100} + \frac{(4\% + 2\% + 5\%)}{1000} + \frac{0\%}{10,000} \\ &= .01\% + 0\% + .01\% + .011\% + 0\% = .031\% \end{aligned}$$

So his equivalent concentration equals .031%.

(c) A person whose waste mixture contains toxic constituents shall determine his designation from the toxic dangerous waste mixtures graph in WAC 173-303-9906 by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste as DW; if the plotted point is in the area marked EHW, he shall designate his waste as EHW.

(d) If a person knows only some of the toxic constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for toxicity under this subsection.

(e) Toxic dangerous waste mixtures graph. The toxic dangerous waste mixtures graph appears in WAC 173-303-9906.

(6) Persistence.

(a) A person whose waste mixture contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated

hydrocarbon concentration by summing the concentration percentages for all of those halogenated hydrocarbons for which he knows the concentrations in his waste mixture.

Example 2. A person's waste mixture contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1-trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(b) A person whose waste mixture contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in his waste mixture.

Example 3. A person's waste mixture contains: Chrysene - .08%; 3, 4-benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(c) A person whose waste mixture contains halogenated hydrocarbons shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total halogenated hydrocarbon concentration for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total halogenated hydrocarbon concentration. If the plotted point is in the area marked DW, then he shall designate his waste DW; if the plotted point is in the area marked EHW, then he shall designate his waste EHW.

(d) A person whose waste mixture contains polycyclic aromatic hydrocarbons with more than three rings and less than seven rings shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total polycyclic aromatic hydrocarbon concentration of his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total polycyclic aromatic hydrocarbon concentration. If the plotted point is in the area marked EHW, then he shall designate his waste EHW. If the plotted point is outside of the area marked EHW, then his waste is not designated.

(e) If a person knows only some of the persistent constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his

waste is not designated for persistence under this subsection.

(f) Persistent dangerous waste mixtures graph. The persistent dangerous waste mixtures graph appears in WAC 173-303-9907.

(7) Carcinogens. Any person whose waste mixture contains one or more IARC human or animal, positive or suspected carcinogen(s) shall designate his waste DW if:

(a) The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and

(b) The monthly or batch waste quantity exceeds 220 lbs. (100 kg).

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC *Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans*.

(8) Assigning dangerous waste numbers. A person whose waste is a dangerous waste mixture shall assign a dangerous waste number from the generic dangerous waste numbers table in WAC 173-303-104, Generic dangerous waste numbers. He shall assign the dangerous waste number from the table which corresponds to the designation for his dangerous waste.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-084, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-084, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-084, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-084, filed 2/10/82.]

WAC 173-303-090 Dangerous waste characteristics. (1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section shall be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of his waste exceeds 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using Method 5.2 in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, available from the department;

(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*. The NACE Standard is available from the department; or

(iii) It is solid or semi-solid, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110 (3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D002.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

- (ii) It reacts violently with water;
- (iii) It forms potentially explosive mixtures with water;
- (iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;
- (v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;
- (vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;
- (vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or
- (viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D003.

(8) Characteristic of EP toxicity.

(a) A solid waste exhibits the characteristic of EP toxicity if, using *Extraction Procedure Test Methods - 1981* on file with the department, the extract from a representative sample of the waste contains any of the contaminants listed in the EP toxicity list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of this subsection.

(b) A solid waste that exhibits the characteristic of EP toxicity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) EP toxicity list. Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations in the EHW range shall cause that waste to be designated EHW. Any waste containing contaminants which occur at concentrations in the DW range only (i.e., no EHW contaminants), shall be designated DW.

EP TOXICITY LIST

Dangerous Waste Number	Contaminant	EHW Maximum Concentration In Extract (mg/L)	DW Maximum Concentration In Extract (mg/L)
D004	Arsenic	> 500	5 - 500
D005	Barium	> 10,000	100 - 10,000
D006	Cadmium	> 100	1 - 100
D007	Chromium	> 500	5 - 500
D008	Lead	> 500	5 - 500
D009	Mercury	> 20	0.2 - 20
D010	Selenium	> 100	1 - 100
D011	Silver	> 500	5 - 500
D012	Endrin	> 2	0.02 - 2
D013	Lindane	> 40	0.4 - 40
D014	Methoxychlor	> 1,000	10 - 1,000
D015	Toxaphene	> 50	0.5 - 50
D016	2,4-D	> 1,000	10 - 1,000
D017	2,4,5-TP Silvex	> 100	1 - 100

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-090, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-090, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-090, filed 6/27/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-090, filed 2/10/82.]

WAC 173-303-100 Dangerous waste criteria. (1) The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes, WAC 173-303-101;
- (b) Persistent dangerous wastes, WAC 173-303-102;
- (c) Carcinogenic dangerous wastes, WAC 173-303-103; and
- (d) Dangerous waste characteristics, WAC 173-303-090.

(2) Applicability. Any person who has established that his waste meets any of the dangerous waste criteria is a dangerous waste generator, and shall comply with the applicable requirements set forth in this chapter. A person shall use the dangerous waste criteria to designate his waste pursuant to WAC 173-303-070 (3)(b), or (4), or to exempt his waste pursuant to WAC 173-303-072, or to otherwise establish the risk which his waste presents to public health and the environment.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-100, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-100, filed 2/10/82.]

WAC 173-303-101 Toxic dangerous wastes. (1) Purpose. This section describes methods for determining the toxicity of a waste and the criteria by which a toxic waste shall be designated DW or EHW.

(2) Categorization.

(a) The following toxic category table establishes categories (X, A, B, C, or D) for particular toxicity levels. The X category is the most toxic, and the D category is least toxic. Substances which have toxicity levels below the D category are generally considered to be nontoxic.

TOXIC CATEGORY TABLE

Category	TLm ₉₆ (Fish) or Aquatic (Fish) LC ₅₀ (ppm)	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	<2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200

TOXIC CATEGORY TABLE

Category	TLm96 (Fish) or Aquatic (Fish) LC50(ppm)	Oral (Rat) LD50(mg/kg)	Inhalation (Rat) LC50(mg/L)	Dermal (Rabbit) LD50 (mg/kg)
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) In order to determine the toxic categories for the constituents in his waste, a person must obtain toxicity data on the constituents either through knowledge he has about his waste, or by obtaining data from the two sources referenced in subsection (3)(a) and (b) of this section, (EPA's Spill Table and NIOSH Registry). If data obtained for a constituent is available for more than one of the toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used to assign the most acutely toxic category to the waste constituent.

(3) Establishing waste toxicity. A person shall establish the toxicity of his waste or waste constituents by applying his knowledge about his waste, or by using the following information sources or testing methods, or all of these:

(a) The National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances* (Registry);

(b) The United States EPA's regulation 40 CFR Table 302.4 (Spill Table); and

(c) The bioassay testing methods adopted under WAC 173-303-110(3).

(4) Book designation procedure.

(a) A person may use the book designation procedure described in this paragraph only if:

(i) He knows the toxic categories (as set forth in subsection (2) of this section) for the significant toxic constituents in his waste;

(ii) He knows the concentrations of the significant toxic constituents in his waste; and

(iii) He can demonstrate to the department beyond a reasonable doubt that any waste constituents about which he has limited or no knowledge do not significantly affect the toxicity of his waste.

(b) Equivalent concentration. A person who is book designating his waste shall determine the equivalent concentration (in percent) of the toxic constituents in his waste by using the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where $\Sigma(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10000} + \frac{0\%}{100000} \\ &= .01\% + 0\% + .01\% + .011\% + 0\% = .031\% \end{aligned}$$

So his equivalent concentration equals .031%.

(c) Toxic dangerous waste graph. To book designate his waste, a person shall use the toxic dangerous waste mixtures graph in WAC 173-303-9906, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste DW; if the plotted point is in the area marked EHW, he shall designate his waste EHW.

(5) Designation from bioassay data. If a person has established the toxicity of his waste by means of the bioassay test methods adopted under WAC 173-303-110(3), and has determined his waste's toxicity range (C category or greater toxicity, or D category toxicity), then he shall designate his waste according to the toxic dangerous waste designation table, below.

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxic range falls in the . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation is . . .
D Category	Greater than 220 lbs. (100 kg)	DW
X, A, B, or C Category	40-220 lbs. (18.2-100 kg)	DW
	Greater than 220 lbs. (100 kg)	EHW

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-101, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-101, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-101, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-101, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-102 Persistent dangerous wastes. (1) Purpose. This section describes the procedures for designating wastes which contain halogenated hydrocarbons (HH) and/or polycyclic aromatic hydrocarbons with more than three rings and less than seven rings (PAH).

(2) Concentration determination. A person shall determine the concentration of HH and/or PAH in his waste by either testing his waste as specified in (a) of this subsection, or by the calculation procedures described in (b) of this subsection.

(a) Concentration tests. A person shall test his waste to determine its concentration level as follows:

(i) For HH - By using the testing methods specified in WAC 173-303-110 (3)(a)(v); and,

(ii) For PAH - By using the testing methods specified in WAC 173-303-110 (3)(a)(vi).

(b) Concentration calculations. If a person knows the concentrations of the significant persistent constituents

in his waste, and if he can demonstrate to the department beyond a reasonable doubt that any remaining persistent constituents for which he does not know the concentrations would not contribute significantly to the total persistent concentration, then he may calculate the concentration of persistent constituents in his waste as follows:

(i) A person whose waste contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of his waste's significant halogenated hydrocarbons.

Example 1. A person's waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1-trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(ii) A person whose waste contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of his waste's significant polycyclic aromatic hydrocarbons with more than three rings and less than seven rings.

Example 2. A person's waste contains: Chrysene - .08%; 3, 4-benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(3) Designation criteria and quantity. A person whose waste contains persistent (HH or PAH) constituents shall designate his waste according to the persistent dangerous waste table, below, if his monthly or batch waste quantity exceeds 220 lbs. (100 kg).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a concentration level of . . .	Then your waste's designation is . . .
Halogenated	0.01 to 1.0%	DW
Hydrocarbons (HH)	greater than 1.0%	EHW
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*

* No DW concentration level for PAH.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-102, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-102, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-102, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-102, filed 2/10/82. Formerly WAC 173-302-130.]

WAC 173-303-103 Carcinogenic dangerous wastes.
 (1) Criteria. A substance which is listed in the National Institute for Occupational Safety and Health (NIOSH) document *Registry of Toxic Effects of Chemical Substances* (Registry), or any other scientific or technical

documents, as an IARC (International Agency for Research on Cancer) human or animal, positive or suspected carcinogen, shall be a carcinogenic substance for the purposes of this section. Any IARC identified substance which is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled).

(2) Designation. Any person whose waste contains one or more IARC carcinogen(s) shall designate his waste if:

(a) The monthly or batch waste quantity exceeds 220 lbs. (100 kg); and either

(b)(i) The concentration of any one IARC positive (human or animal) carcinogen exceeds 1.0% of the waste quantity. Such waste shall be designated EHW, and such designation shall take precedence over any DW designation determined by (b)(ii) or (iii) of this subsection; or

(ii) The concentration of any one IARC positive (human or animal) carcinogen exceeds 0.01% of the waste quantity. Such waste shall be designated DW; or

(iii) The total concentration summed for all IARC positive and suspected (human and animal) carcinogens exceeds 1.0% of the waste quantity. Such waste shall be designated DW.

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC *Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans*.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-103, filed 6/26/87; 84-14-031 (Order DE 84-22), § 173-303-103, filed 6/27/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-103, filed 2/10/82.]

WAC 173-303-104 Generic dangerous waste numbers. (1) Purpose. This section sets forth the dangerous waste number for each of the dangerous waste criteria designations.

(2) Characteristics. A waste which exhibits any of the dangerous waste characteristics, WAC 173-303-090, shall be assigned the dangerous waste number corresponding to the characteristic(s) exhibited by the waste.

(3) Criteria. The following table shall be used for assigning dangerous waste numbers to wastes designated by the dangerous waste criteria or by WAC 173-303-084.

GENERIC DANGEROUS WASTE NUMBERS TABLE

Dangerous Waste#	Dangerous Waste Criteria and Designation
WT01	Toxic Dangerous Wastes EHW
WT02	DW
WP01	Persistent Dangerous Wastes Halogenated Hydrocarbons EHW
WP02	DW

GENERIC DANGEROUS WASTE NUMBERS TABLE

Dangerous Waste#	Dangerous Waste Criteria and Designation
WP03	Polycyclic Aromatic Hydrocarbons EHW
WC01	Carcinogenic Dangerous Wastes EHW
WC02	DW

[Statutory Authority: Chapter 70.105 RCW, 84-14-031 (Order DE 84-22), § 173-303-104, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-104, filed 2/10/82.]

WAC 173-303-110 Sampling and testing methods.

(1) Purpose. This section describes the testing methods which may be used in the process of designating a dangerous waste.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below, for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

- (i) Crushed or powdered material – ASTM Standard D346-75;
- (ii) Extremely viscous liquid – ASTM Standard D140-70;
- (iii) Fly ash-like material – ASTM Standard D2234-76;
- (iv) Soil-like material – ASTM Standard D1452-65;
- (v) Soil or rock-like material – ASTM Standard D420-69;
- (vi) Containerized liquid wastes – "COLIWASA" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985); and,
- (vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs – "Pond Sampler" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods*, SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained from the department by writing to the appropriate address below:

For copies of WDOE test methods:

Attn: Test Procedures
Hazardous Waste Section, PV-11
Department of Ecology
Olympia, Washington 98504

For copies of SW 846:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20401

For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

The document titles and included test procedures are as follows:

(a) *Chemical Testing Methods for Complying with the Dangerous Waste Regulation*, March 1982, revised July 1983, describing methods for testing:

(i) Ignitability;

(ii) Corrosivity, including the addendum, *Test Method for Determining pH of Solutions in Contact with Solids*, March 1984;

(iii) Reactivity;

(iv) EP Toxicity;

(v) Halogenated hydrocarbons; and

(vi) Polycyclic aromatic hydrocarbons;

(b) *Biological Testing Methods*, revised July 1981, describing procedures for:

(i) Static acute fish toxicity test; and

(ii) Acute oral rat toxicity test;

(c) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, SW-846 (the most recent edition and all updates) is adopted by reference. This includes:

(i) Method 9095 (Paint Filter Liquids Test), demonstrating the absence or presence of free liquids in either a containerized or bulk waste;

(ii) Reserved;

(d) 40 CFR Part 261 Appendix X is adopted by reference for the purpose of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and

(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(4) Substantial changes to the testing methods described above shall be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

[Statutory Authority: Chapter 70.105 RCW, 89-02-059 (Order 88-24), § 173-303-110, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-110, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-110, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-110, filed 2/10/82.]

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

- (i) Industrial ethyl alcohol that is reclaimed;
- (ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;
- (iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:
 - (A) Being burned for energy recovery; or
 - (B) Being used in a manner constituting disposal, except when such use is by the generator on his own property;
- (iv) Scrap metal;
- (v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;
- (vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;
- (vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;
- (viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)(d) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(d) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001, (see WAC 173-303-515);

(e) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(f) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but

not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

- (i) WAC 173-303-060, and
- (ii) WAC 173-303-370;

(d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

- (i) For all recyclers, the applicable provisions of:
 - (A) WAC 173-303-280 through 173-303-395,
 - (B) WAC 173-303-420,
 - (C) WAC 173-303-800 through 173-303-840;

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

- (A) WAC 173-303-600 through 173-303-650, and
- (B) WAC 173-303-660.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-120, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-120, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-120, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-120, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-120, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-120, filed 2/10/82.]

WAC 173-303-121 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-121, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-121, filed 4/18/84.]

WAC 173-303-130 Containment and control of infectious wastes. (Reserved.)

[Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-130, filed 2/10/82.]

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

- (i) Reduction;
- (ii) Recycling;
- (iii) Physical, chemical, and biological treatment;
- (iv) Incineration;
- (v) Stabilization and solidification; and
- (vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, shall be the same as the term "land disposal." Land disposal

will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a land disposal facility in Washington state and to any generator affected by the restrictions and prohibitions in subsection (4) of this section, unless allowed pursuant to subsections (5), (6), or (7) of this section.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

(c) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

(d) "Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the characteristic of EP toxicity described in WAC 173-303-110.

(e) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(f) "Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

(g) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of either WAC 173-303-090 (6)(a)(ii) or (iii).

(h) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person shall land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person shall land dispose of EHW at the facility established under RCW 70.105-.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise

process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for the disposal of liquid waste in landfills.

(i) Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated so that free liquids are no longer present.

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with absorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is a lab pack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods. (EPA Publication No. SW-846.)

(c) Disposal of ignitable and reactive waste. No person shall land dispose ignitable or reactive waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of solid acid waste. No person shall land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(e) Disposal of organic/carbonaceous waste.

(i) No person shall land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud

generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(f) Disposal of leachable inorganic waste. No person shall land dispose a leachable inorganic waste, except as provided in subsections (5), (6), or (7) of this section. Leachable inorganic waste must be stabilized (solidified) as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section or the leachable inorganic waste must be lab packaged in a container that complies with WAC 173-303-161. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(g) Disposal of dioxin containing wastes. These wastes are regulated by federal regulations contained in 40 CFR Part 268 that restrict the land disposal of dioxin containing wastes.

(h) Disposal of solvent wastes. These wastes are regulated by federal regulations contained in 40 CFR Part 268 that restrict the land disposal of solvent wastes.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

(i) Liquid waste, extremely hazardous waste (EHW), solid acid waste, leachable inorganic waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be placed in surface impoundments provided that:

(A) The conditions in (a)(i) of this subsection are complied with; and

(B) The ignitable or reactive waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395(1) is complied with.

(b) Waste pile treatment.

(i) Leachable inorganic waste, liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be placed in a waste pile provided that:

(A) The conditions in (b)(i) of this subsection are complied with; and

(B) The placement of the ignitable or reactive waste onto an existing waste pile results in the waste or mixture no longer meeting the definition of ignitable or reactive under WAC 173-303-090, and complies with WAC 173-303-395(1).

(c) Land treatment.

(i) Liquid waste, extremely hazardous waste (EHW), organic/carbonaceous waste, and leachable inorganic waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(ii) Ignitable waste and reactive waste may be land treated provided that:

(A) The conditions in (c)(i) of this subsection are complied with; and

(B) The ignitable or reactive waste is immediately incorporated into the soil so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395(1).

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a

potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b), (c), or (d) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Leachable inorganic waste exemption. Any person may request an exemption from the stabilization (solidification) requirement in subsection (4)(f) of this section by demonstrating to the department that:

(i) The stabilization (solidification) of a dangerous waste is less protective of human health and the environment than landfilling; or

(ii) Stabilization (solidification) capacity is unavailable. This demonstration may include technical and practical difficulties associated with providing alternative capacity. A person must provide a detailed schedule and plan for alternative capacity; or

(iii) Stabilization (solidification) techniques have been applied to the original waste and further efforts at stabilization (solidification) would not result in significantly reducing the solubility and mobility of the dangerous waste constituents.

(d) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.150.

[Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-140, filed 1/5/88, effective 2/5/88; 84-09-088 (Order DE 83-36), § 173-303-140, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-140, filed 2/10/82.]

WAC 173-303-141 Treatment, storage, or disposal of dangerous waste. (1) A person shall only offer a designated dangerous waste to a TSD facility which is operating either: Under a permit issued pursuant to the requirements of this chapter; or, if the TSD facility is located outside of this state, under interim status or a permit issued by United States EPA under 40 CFR Part 270, or under interim status or a permit issued by another state which has been authorized by United States EPA pursuant to 40 CFR Part 271.

(2) A person may offer a state only designated dangerous waste (not regulated as a hazardous waste by EPA) to a facility which is located outside of this state and which does not meet the requirements of subsection (1) of this section if:

(a) The facility receiving the waste will legitimately treat or recycle the dangerous waste (disposal is an unacceptable management practice);

(b) The generator has on file a letter or copy of a letter signed by the regulatory authority in the receiving state that the receiving facility may accept the waste;

(c) The generator uses a transporter with a valid EPA/state identification number;

(d) The generator complies with all other applicable requirements, including manifesting, packaging and labeling, with respect to the shipping of the waste. However, the EPA/state identification number for the receiving facility is not required on the manifest or annual report; and

(e) The generator receives from the receiving facility a signed and dated copy of the manifest.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-141, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-141, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-141, filed 2/10/82.]

WAC 173-303-145 Spills and discharges into the environment. (1) Purpose and applicability. This section

sets forth the requirements for any person responsible for a spill or discharge into the environment, except when such release is otherwise permitted under state or federal law. For the purposes of complying with this section, a transporter who spills or discharges dangerous waste or hazardous substances during transportation will be considered the responsible person. This section shall apply when any dangerous waste or hazardous substance is intentionally or accidentally spilled or discharged into the environment (unless otherwise permitted) such that public health or the environment are threatened, regardless of the quantity of dangerous waste or hazardous substance.

(2) Notification. Any person who is responsible for a nonpermitted spill or discharge shall immediately notify the individuals and authorities described for the following situations:

(a) For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, notify the appropriate regional office of the department of ecology; and

(b) For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, in western Washington notify the local air pollution control authority, or in eastern Washington notify the appropriate regional office of the department of ecology.

(3) Mitigation and control. The person responsible for a nonpermitted spill or discharge shall take appropriate immediate action to protect human health and the environment (e.g., diking to prevent contamination of state waters, shutting of open valves).

(a) In addition, the department may require the person responsible for a spill or discharge to:

(i) Clean up all released dangerous wastes or hazardous substances, or to take such actions as may be required or approved by federal, state, or local officials acting within the scope of their official responsibilities. This may include complete or partial removal of released dangerous wastes or hazardous substances as may be justified by the nature of the released dangerous wastes or hazardous substances, the human and environmental circumstances of the incident, and protection required by the Water Pollution Control Act, chapter 90.48 RCW;

(ii) Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge in accordance with this chapter 173-303 WAC. The department may require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any materials resulting from clean-up; and

(iii) If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the department.

(b) Where immediate removal or temporary storage of spilled or discharged dangerous wastes or hazardous substances is necessary to protect human health or the environment, the department may direct that removal be accomplished without a manifest, by transporters who do not have EPA/state identification numbers.

(4) Nothing in WAC 173-303-145 shall eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-145, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-145, filed 2/10/82.]

WAC 173-303-150 Division, dilution, and accumulation. (1) Any action taken to evade the intent of this regulation by dividing or diluting wastes to change their designation shall be prohibited, except for the purposes of treating, neutralizing, or detoxifying such wastes.

(2) Separation of a homogeneous waste into heterogeneous phases (e.g., separation of a suspension into sludge and liquid phases, or of a solvent/water mixture into solvent and water phases, etc.) shall not be considered as division, provided that the person generating the waste either:

(a) Designates the homogeneous waste before separation, and handles the entire waste accordingly; or

(b) Designates each phase of the heterogeneous waste, in accordance with the dangerous waste designation requirements of this chapter, and handles each phase accordingly.

(3) For the purposes of designation, quantities of continuously generated wastes shall be summed monthly. All wastes generated less frequently than once a month shall be considered as batch or single event wastes.

[Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-150, filed 2/10/82. Formerly WAC 173-302-150.]

WAC 173-303-160 Containers. (1) Waste quantity. Containers and inner liners shall not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in nonempty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, whichever quantity is least, either less than one inch of waste remains at the bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to one percent or less of the container's total capacity, or, if the container's total capacity is

greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040(2), or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing shall be ten percent or more of the container's or inner liner's capacity. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (e.g., fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (e.g., on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department.

Any rinsate or vacuumed residue which results from the cleaning of containers or inner liners shall whenever possible be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate shall be managed or reused in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property. Otherwise, the rinsate shall be checked against the designation requirements (WAC 173-303-070 through 173-303-103) and, if designated, managed according to the requirements of this chapter.

(3) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(4) A person may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-160, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-160, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-160, filed 2/10/82. Formerly WAC 173-302-140.]

WAC 173-303-161 Overpacked containers (labpacks). Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:

(1) Dangerous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be

full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR Parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of absorbent material to completely absorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and absorbent material;

(3) The absorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with WAC 173-303-395 (1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090 (7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive.

(6) An itemized listing of the chemicals, their concentrations and quantities per labpack must be kept by the generator and must be readily available in case of an emergency during shipment, and for the purposes of preparing annual reports under WAC 173-303-220.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-161, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-161, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-161, filed 4/18/84.]

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person shall be a dangerous waste generator if his solid waste is designated by the requirements of WAC 173-303-070 through 173-303-103.

(a) The generator shall be responsible for designating his waste as DW or EHW.

(b) The generator may request an exemption for his dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator shall notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and shall comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Except for the accumulation and storage of dangerous wastes for less than ninety days as allowed under WAC 173-303-200, any generator who transfers, stores, treats, or disposes of dangerous waste on-site shall perform his operations in accordance with the TSD facility requirements of this chapter.

(4) The generator of a special waste may, upon approval by the department, for special waste only:

(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for special waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same special waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction before implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and

(b) Pursuant to the requirements of WAC 173-303-200, accumulate special waste in containers and tanks for up to one hundred eighty days, and accumulate special waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3)(a), (b)(i), (ii)(A), (7), (8), and (9)(a).

(5) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

[Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-170, filed 1/5/88, effective 2/5/88; 87-14-029 (Order DE-87-4), § 173-303-170, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-170, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-170, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-170, filed 2/10/82.]

WAC 173-303-180 Manifest. Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator shall prepare a manifest and shall follow all applicable procedures described in this section.

(1) This subsection describes the form and contents of dangerous waste manifests. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest shall be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262, and in addition must contain the following information in the specified shaded items of the uniform manifest:

(a) Item D, and O if the continuation sheet 8700-22A is used - The first transporter's telephone number must be provided in this space;

(b) Item F, and Q if the continuation sheet 8700-22A is used - If a second transporter is used, then the second transporter's telephone number must be provided in this space;

(c) Item H - The designated receiving facility's telephone number must be provided in this space; and

(d) Item I, and R if the continuation sheet 8700-22A is used - The dangerous waste number (e.g., F001, D006, WT02, P102) must be provided in this space for each corresponding waste entered and described under Item 11, and 28 if the continuation sheet 8700-22A is used. As discussed in subsection (5) of this section, dangerous waste numbers WL01 or WL02 may be used in this space for labpacks.

(2) The manifest shall consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator shall:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator shall give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford shall notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator shall not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) Special instructions for shipment of labpacks. For purposes of completing the uniform dangerous waste

manifest, dangerous waste numbers WL01 (for labpacks containing wastes designated as EHW) or WL02 (for labpacks containing wastes designated only as DW) may be used to complete Items I and R in lieu of the dangerous waste numbers that would otherwise be assigned to the contents of the labpack.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-180, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-180, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-180, filed 2/10/82. Formerly WAC 173-302-180 and 173-302-190.]

WAC 173-303-190 Preparing dangerous waste for transport. The generator shall fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator shall package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179.

(2) Labeling. The generator shall label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator shall:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or equivalent words and information, displayed in accordance with 49 CFR 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator's Name and Address

.....
.....
.....

Manifest Document Number

.....

(4) Placarding. The generator shall placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-190, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-190, filed 2/10/82.]

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), and (9), or the waste is placed in tanks and the generator complies with WAC 173-303-640 except WAC 173-303-640 (8)(c), except that in lieu of the "sufficient freeboard" requirement of WAC 173-303-640 (5)(b)(iii) for uncovered tanks, the generator must maintain a minimum freeboard of two feet. Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5). For container accumulation (including satellite areas as described in subsection (2)(c) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7);

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate); and

(e) The generator complies with the requirements for facility operators contained in WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies), and WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection): *Provided*, That if none of the dangerous wastes he generates are regulated as EHW under WAC 173-303-081 and no quantity of dangerous wastes he generates in one month

or one batch ever exceeds 2200 pounds (1000 kilograms), then the generator need comply with the aforementioned requirements of WAC 173-303-320 through 173-303-360 only if:

(i) He accumulates dangerous waste on-site for ten or more calendar days; or

(ii) He is directed by the department to so comply, due to potential threats to public health or the environment. In such case, the department may require that he comply with all of or only parts of WAC 173-303-330 through 173-303-360, as necessary to mitigate the potential threats to public health or the environment.

(2) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or

(c) The quantity of dangerous waste being accumulated in containers in a satellite area exceeds fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (see WAC 173-303-040(2)). For the purposes of this section, a satellite area shall be a location at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-200, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-200, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-200, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-200, filed 2/10/82.]

WAC 173-303-201 Special accumulation standards.

(1) This section applies to persons who generate less than 2200 pounds (1000 kg) per month and do not accumulate on-site more than 2200 pounds (1000 kg) of dangerous waste. The special provisions of this section do not apply to any acutely hazardous wastes (as defined in WAC 173-303-040(2)) that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate per month and accumulate on-site less than 2200 pounds (1000 kg) per month of dangerous waste are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training); and

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-201, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-201, filed 6/3/86.]

WAC 173-303-202 Special requirements for generators of between two hundred twenty and two thousand two hundred pounds per month that accumulate dangerous waste in tanks. (1) This section applies to generators of more than two hundred twenty pounds but less than two thousand two hundred pounds of dangerous waste in a calendar month, that accumulate dangerous waste in

tanks for less than one hundred eighty days (or two hundred seventy days if the generator must ship the waste greater than two hundred miles), and do not accumulate over two thousand two hundred pounds on-site at any time.

(2) Generators of between two hundred twenty and two thousand two hundred pounds per month of dangerous waste must comply with the following general operating requirements:

(a) Treatment or storage of dangerous waste in tanks must comply with WAC 173-303-395(1).

(b) Dangerous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(c) Uncovered tanks must be operated to ensure at least sixty centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty centimeters (two feet) of the tank.

(d) Where dangerous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a standby tank).

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(3) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must inspect, where present:

(a) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(c) The level of waste in the tank at least once each operating day to ensure compliance with subsection (2)(c) of this section;

(d) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(e) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes,) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

Note: As required by WAC 173-303-320(3), the owner or operator must remedy any deterioration or malfunction he finds.

(4) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must, upon closure of the facility, remove all dangerous waste from tanks, discharge control equipment, and discharge confinement structures.

Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with WAC 173-303-070 (2)(a) or (b), that any solid waste removed from his tank is not a dangerous waste, the owner or operator becomes a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter.

(5) Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for ignitable or reactive waste:

(a) Ignitable or reactive waste must not be placed in a tank, unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

(A) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7) of this chapter; and

(B) WAC 173-303-395(1) is complied with.

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981).

(6) Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for incompatible wastes:

(a) Incompatible wastes, or incompatible wastes and materials, (see 40 CFR Part 265 Appendix V for examples) must not be placed in the same tank, unless WAC 173-303-395(1) is complied with.

(b) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1) is complied with.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-202, filed 1/4/89.]

WAC 173-303-210 Generator recordkeeping. (1) The generator shall keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy shall be retained for at least three years from the date the waste was accepted by the initial transporter.

(2) The generator shall keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least three years from the due date of each report.

(3) The generator shall keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste for at least three years from the date that the waste was last transferred for on-site or off-site TSD.

(4) Any other records required for generators accumulating wastes on-site as described in WAC 173-303-170 (4)(b) or 173-303-200 must be retained for at least three years, including, but not limited to such items as inspection logs and operating records.

(5) The periods of retention for any records described in this section shall be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-210, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-210, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-210, filed 2/10/82.]

WAC 173-303-220 Generator reporting. The generator shall submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 shall submit an annual report to the department, on the Generator Annual Dangerous Waste Report - Form 4 according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site shall comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports concerning the quantities and disposition of his dangerous waste.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-220, filed 6/26/87; 86-12-057 (Order DE-85-10),

§ 173-303-220, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-220, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-220, filed 2/10/82.]

WAC 173-303-230 Special conditions. (1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth in 40 CFR 262.50 and specify the procedures applicable to generators of hazardous waste (as defined in WAC 173-303-040(39)). Copies of any forms or reports submitted to the administrator of United States EPA as required by 40 CFR 262.50 shall also be submitted to the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer shall comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number shall be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) Empty containers. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use shall not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars shall handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-230, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-230, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-230, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-230, filed 2/10/82.]

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Transporters shall comply with the requirements of WAC 173-303-060, Notification and identification numbers. Transporters who are involved in interstate transport shall use the identification number assigned to their national headquarters office,

unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport shall use the identification number assigned to their headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport shall obtain a separate generator EPA/state ID# for such spill or terminal.

(2) Any person who transports a dangerous waste shall comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180.

Any person who transports special waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170 (4)(a), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.

(3) Any person who transports a dangerous waste shall also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(4) These requirements shall not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities.

(5) Transporters may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters may not accumulate or store manifested shipments of dangerous waste for more than ten days. Reference to WAC 173-303-200 in 173-303-240(3) does not constitute authority for storage in excess of ten days for transporters. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-240, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-240, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-240, filed 6/27/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-240, filed 2/10/82. Formerly WAC 173-302-210.]

WAC 173-303-250 Dangerous waste acceptance, transport, and delivery. (1) A transporter shall not accept dangerous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with WAC 173-303-180, Manifest.

(2) Before transporting a dangerous waste shipment, the transporter shall sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter shall return a signed copy to the generator before commencing transport.

(3) The transporter shall insure that the manifest accompanies the dangerous waste shipment.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility shall:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter shall deliver the entire quantity of dangerous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6) If the dangerous waste cannot be delivered in accordance with subsection (5) of this section, the transporter shall contact the generator for further directions, and shall revise the manifest according to the generator's instructions.

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility;

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste;

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste at all times.

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States shall:

(a) Indicate on the manifest the date the dangerous waste left the United States;

(b) Sign the manifest and retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping; and

(c) Return a signed copy of the manifest to the generator.

[Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-250, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-250, filed 2/10/82. Formerly WAC 173-302-220 and 173-302-230.]

WAC 173-303-260 Transporter recordkeeping. (1)

A transporter of dangerous waste shall keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(2) Water (bulk shipment) and rail transporter recordkeeping.

(a) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter shall retain a copy of a shipping paper containing all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(b) For shipments of dangerous waste by rail within the United States:

(i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter; and

(ii) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(3) A transporter who transports dangerous waste out of the United States shall keep a copy of the manifest, indicating that the dangerous waste left the United States, for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the director.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-260, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-260, filed 2/10/82.]

WAC 173-303-270 Discharges during transport. In the event of a spill or discharge of dangerous waste during transportation, the transporter shall comply with the requirements of WAC 173-303-145, Spills and discharges into the environment. In addition to the notices required by WAC 173-303-145, the transporter shall provide the following notifications:

(1) Give notice to the generator of the waste that a discharge has occurred;

(2) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15;

(3) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington D.C., 20590; and,

(4) For a water (bulk shipment) transporter, give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-270, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-270, filed 2/10/82.]

WAC 173-303-280 General requirements for dangerous waste management facilities. (1) Applicability. The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. The owner or operator of a facility which manages special waste may comply with the special requirements specified in WAC 173-303-550 through 173-303-560 in lieu of the general requirements of WAC 173-303-280 through 173-303-395, but only for those special wastes which he manages. Whenever a

shipment of dangerous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) Imminent hazard. Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) Identification numbers. Every facility owner or operator shall apply for an EPA/state identification number from the department in accordance with WAC 173-303-060.

(4) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

[Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-280, filed 1/5/88, effective 2/5/88; 87-14-029 (Order DE-87-4), § 173-303-280, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-280, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-280, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-280, filed 2/10/82.]

WAC 173-303-281 Notice of intent. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility and the types of wastes to be managed and compliance with the siting standards.

(2) Applicability. This section applies to owners and operators of proposed facilities. This section also applies to owners and operators of existing facilities with interim or final status for which the department receives an application for expansion. As used in this section:

(a) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, and for which the owner/operator applies for an interim or final status permit, under WAC 173-303-805 or 173-303-806, after the effective date of this section;

(b) "Existing facility" means a facility for which an interim or final status permit has been issued by the department pursuant to WAC 173-303-805 or 173-303-806; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

This section does not apply to owners/operators of facilities or portions of facilities applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition,

this section does not apply to mobile facilities for on-site cleanup at treatment, storage or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, or chapters 70.105, 70.105B, and 90.48 RCW.

(3) Notice of intent to file for a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities shall consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) An environmental checklist from the State Environmental Policy Act rules, chapter 197-11 WAC;

(vi) Documentation that the proposed facility or expansion site meets the requirements of WAC 173-303-420, Siting standards. Preliminary ground water characterization based on available data shall also be provided;

(vii) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, its subsidiaries or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant shall also submit responses to past violations and any written correspondence with regulatory agencies regarding the compliance status of any hazardous waste management facility owned or operated by the applicant, its subsidiaries or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

(viii) For informational purposes the need for the proposed facility or expansion shall be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it shall be shown how the capacity of the proposed facility or expansion will

affect the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent shall be filed with the department, and copies shall be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days.

(c) Reserved.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-281, filed 9/6/88.]

WAC 173-303-283 Performance standards. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

(a) Degradation of ground water quality;

(b) Degradation of air quality by open burning or other activities;

(c) Degradation of surface water quality;

(d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and

(i) Endangerment of the health of employees, or the public near the facility.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-283, filed 9/6/88.]

WAC 173-303-290 Required notices. (1) The facility owner or operator who is receiving dangerous waste from a foreign source shall notify the department in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period,

the owner or operator shall notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-290, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-290, filed 2/10/82.]

WAC 173-303-300 General waste analysis. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator shall obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility shall confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis shall be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator shall develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste will be analyzed, and the rationale for selecting these parameters;

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(g) For off-site facilities, the procedures for confirming that each dangerous waste received matches the identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:

(i) The procedures for identifying each waste movement at the facility; and

(ii) The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-300, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-300, filed 2/10/82.]

WAC 173-303-310 Security. (1) The owner or operator shall comply with the requirements of this section, unless he can demonstrate to the department that:

(a) Physical contact with wastes or equipment within the active portion of the facility will not injure persons or livestock; and

(b) Disturbance of the wastes or equipment within the active portion of the facility by persons or livestock will not result in violations of this chapter 173-303 WAC.

(2) A facility must have:

(a) Signs posted at each entrance to the active portion, and at other locations, in sufficient numbers to be seen from any approach to the active portion. Signs must bear the legend, "Danger-unauthorized personnel keep out," or an equivalent legend, written in English, and must be legible from a distance of twenty-five feet or more; and either

(b) A 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility; or

(c) An artificial or natural barrier, or a combination of both, which completely surrounds the active portion of the facility, with a means to control access through gates or other entrances to the active portion of the facility at all times.

(3) In lieu of WAC 173-303-310(2), above, the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit (as defined in WAC 173-303-040) must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the totally enclosed treatment facility or the elementary neutralization or wastewater treatment unit.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-310, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-310, filed 2/10/82. Formerly WAC 173-302-290.]

WAC 173-303-320 General inspection. (1) The owner or operator shall inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

- (a) He must keep the schedule at the facility;
- (b) The schedule must identify the types of problems which are to be looked for during inspections;
- (c) The schedule shall indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. The inspection schedule shall also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R for interim status facilities and in WAC 173-303-630 through 173-303-670 for final status facilities; and

(d) The owner or operator shall keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least three years from the date of inspection.

(3) The owner or operator shall remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-320, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-320, filed 2/10/82.]

WAC 173-303-330 Personnel training. (1) Training program. The facility owner or operator shall provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter 173-303 WAC, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and shall include those elements set forth in the training plan required in subsection (2) of this section. In addition:

(a) The training program shall be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(b) Facility personnel must participate in an annual review of the training provided in the training program;

(c) This program must be successfully completed by the facility personnel:

- (i) Within six months after these regulations become effective; or
- (ii) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(d) At a minimum, the training program shall familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program shall include other parameters as set forth by the department, but at a minimum shall include, where applicable:

- (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
- (ii) Key parameters for automatic waste feed cut-off systems;
- (iii) Communications or alarm systems;
- (iv) Response to fires or explosions;
- (v) Response to ground-water contamination incidents; and
- (vi) Shutdown of operations.

(2) Written training plan. The owner or operator shall develop a written training plan which must be kept at the facility and which must include the following documents and records:

(a) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications, and duties for each position;

(b) A written description of the type and amount of both introductory and continuing training required for each position; and

(c) Records documenting that facility personnel have received and completed the training required by this section.

(3) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-330, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-330, filed 2/10/82. Formerly WAC 173-302-320.]

WAC 173-303-340 Preparedness and prevention. Facilities shall be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or

any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, or surface or ground water which could threaten the public health or the environment. This section describes preparations and preventive measures which help avoid or mitigate such situations.

(1) Required equipment. All facilities must be equipped with the following, unless it can be demonstrated to the department that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction to facility personnel;

(b) A device, such as a telephone or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(2) Access to communications or alarms. Personnel must have immediate access to the signalling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (1) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (1) of this section.

(3) Aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(4) Arrangements with local authorities. The owner or operator shall attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(a) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of

the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

(b) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(d) Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority.

(5) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-340, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-340, filed 2/10/82.]

WAC 173-303-350 Contingency plan and emergency procedures. (1) Purpose. The purpose of this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or ground water by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency circumstances, and the plan shall be implemented immediately in such emergency circumstances.

(2) Contingency plan. Each owner or operator must have a contingency plan at his facility for use in emergencies or sudden or nonsudden releases which threaten the public health and the environment. If the owner or operator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section and WAC 173-303-360.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-360;

(b) A description of the actions which shall be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals,

contractors, and state and local emergency response teams to coordinate emergency services;

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810 (14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator shall review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations or the facility permit are revised;

(b) The plan fails in an emergency;

(c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-350, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-350, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-360 Emergencies. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all

operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures shall be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator shall assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(viii) Cause of incident; and

(ix) Description of corrective action taken to prevent reoccurrence of the incident.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-360, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-360, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-360, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-360, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following shall be acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator shall take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

[Statutory Authority: Chapter 70.105 RCW, 84-09-088 (Order DE 83-36), § 173-303-370, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-370, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility shall keep a written operating record at his facility. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses required by WAC 173-303-300, General waste analysis;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for three years);

(f) Monitoring, testing, or analytical data where required by 40 CFR Part 265 Subparts F through R for interim status facilities, and by WAC 173-303-630 through 173-303-670 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility; and

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate

permits, as required by WAC 173-303-290, Required notices.

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information shall be kept in the operating record, as follows:

(a) Each dangerous waste received or managed shall be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed then the waste description shall include the process which generated the waste;

(b) The waste description shall include the waste's physical form (i.e., liquid, solid, sludge, or gas);

(c) The weight, or volume and density, of the dangerous waste shall be recorded, using one of the units of measure specified in Table 1, below;

TABLE 1

Unit of Measure	Symbol	Density
Pounds.....	P	
Short tons (2000 lbs)	T	
Gallons (U.S.)	G	P/G
Cubic yards	Y	T/Y
Kilograms	K	
Tonnes (1000 kg)	M	
Liters.....	L	K/L
Cubic meters	C	M/C

(d) And, the date(s) and method(s) of management for each dangerous waste received or managed (treated, recycled, stored, or disposed of) shall be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2

1. Storage
 - S01 Container (barrel, drum, etc.)
 - S02 Tank
 - S03 Waste pile
 - S04 Surface impoundment
 - S05 Other (specify)
2. Treatment
 - (a) Thermal treatment
 - T06 Liquid injection incinerator
 - T07 Rotary kiln incinerator
 - T08 Fluidized bed incinerator
 - T09 Multiple hearth incinerator
 - T10 Infrared furnace incinerator
 - T11 Molten salt destructor
 - T12 Pyrolysis
 - T13 Wet air oxidation
 - T14 Calcination
 - T15 Microwave discharge
 - T16 Cement kiln

T17 Lime kiln
 T18 Other (specify)
 (b) Chemical treatment
 T19 Absorption mound
 T20 Absorption field
 T21 Chemical fixation
 T22 Chemical oxidation
 T23 Chemical precipitation
 T24 Chemical reduction
 T25 Chlorination
 T26 Chlorinolysis
 T27 Cyanide destruction
 T28 Degradation
 T29 Detoxification
 T30 Ion exchange
 T31 Neutralization
 T32 Ozonation
 T33 Photolysis
 T34 Other (specify)
 (c) Physical treatment
 (i) Separation of components
 T35 Centrifugation
 T36 Clarification
 T37 Coagulation
 T38 Decanting
 T39 Encapsulation
 T40 Filtration
 T41 Flocculation
 T42 Flotation
 T43 Foaming
 T44 Sedimentation
 T45 Thickening
 T46 Ultrafiltration
 T47 Other (specify)
 (ii) Removal of specific components
 T48 Absorption-molecular sieve
 T49 Activated carbon
 T50 Blending
 T51 Catalysis
 T52 Crystallization
 T53 Dialysis
 T54 Distillation
 T55 Electrodialysis
 T56 Electrolysis
 T57 Evaporation
 T58 High gradient magnetic separation
 T59 Leaching
 T60 Liquid ion exchange
 T61 Liquid-liquid extraction
 T62 Reverse osmosis
 T63 Solvent recovery
 T64 Stripping
 T65 Sand filter
 T66 Other (specify)
 (d) Biological treatment
 T67 Activated sludge
 T68 Aerobic lagoon
 T69 Aerobic tank
 T70 Anaerobic lagoon or tank
 T71 Composting
 T72 Septic tank

T73 Spray irrigation
 T74 Thickening filter
 T75 Trickling filter
 T76 Waste stabilization pond
 T77 Other (specify)
 T78-79 (Reserved)

3. Disposal
 D80 Underground injection
 D81 Landfill
 D82 Land treatment
 D83 Ocean disposal
 D84 Surface impoundment
 (to be closed as a landfill)
 D85 Other (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-380, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-380, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-380, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report - Form 6 (which may be obtained from the department) must be used for this report. The report must include at least the following information:

- (a) The EPA/state identification number, name, and address of the facility;
 (b) The date the facility received the waste;
 (c) The EPA/state identification number, name, and address of the generator and the transporter, if available;
 (d) A description and the quantity of each unmanifested dangerous waste the facility received;
 (e) The method of management for each dangerous waste;
 (f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number shall prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the TSD Facility Annual Dangerous Waste Report - Form 5 (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator shall also report to the department releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k) and interim status groundwater monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2).

In addition, the owner or operator shall submit any other reports required by the department.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-390, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-390, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-390, filed 2/10/82.]

WAC 173-303-395 Other general requirements. (1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the

owner or operator must confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the facility or device containing the waste; or

(v) Through other like means, threaten human health or the environment.

(c) When required to comply with (a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator shall inspect those areas of his facility where ignitable or reactive wastes are stored. This inspection shall be performed in the presence of a professional person who is familiar with the Uniform Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator shall enter the following information in his inspection log or operating record as a result of this inspection:

(i) The date and time of the inspection;

(ii) The name of the professional inspector or fire marshal;

(iii) A notation of the observations made; and

(iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator shall design, maintain and operate his dangerous waste facility in compliance with all applicable federal, state and local laws and regulations (e.g., control of stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) Asbestos dangerous waste disposal requirements. All asbestos containing waste material shall be disposed of at waste disposal sites which are operated in accordance with 40 CFR Part 61 Subpart M. Such sites will not need to comply with any other standards of chapter 173-303 WAC, if they comply with 40 CFR Part 61.

(4) Loading and unloading areas. TSD facilities which receive or ship manifested shipments of liquid dangerous waste for treatment, storage or disposal must

provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

(a) Contain spills and leaks that might occur during loading or unloading;

(b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;

(c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and

(d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.

(5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste shall not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit, for waste regulated under this chapter and being stored in impoundments or piles on the effective date of this requirement, will begin on August 1, 1984. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

(i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;

(ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile shall be deemed the same age as the oldest waste in the impoundment or pile;

(iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;

(iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;

(v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and

(vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing a recycling or treatment process for the wastes stored in his impoundment or pile, then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will only apply to those dangerous wastes covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department,

and will not exceed five years: *Provided*, That on a case-by-case basis the department may grant an extension of longer than five years, but in no case will any extension be granted for longer than ten years, if the owner/operator of the impoundment or pile can demonstrate to the department's satisfaction that an extension of more than five years will not pose a threat to public health or the environment, and is necessary because: Other treatment or recycling options of shorter durations are not available; the treatment or recycling plan developed by the owner/operator cannot be implemented within five years due to technological circumstances; or, such other reasons as are determined acceptable by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan and schedule, at a minimum, must:

(i) Specify the wastes which will be recycled or treated in accordance with the plan;

(ii) Describe in detail the recycling or treatment which the owner/operator intends to perform. If the recycling or treatment will involve physical changes to the owner's/operator's facility, the plan must include descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;

(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;

(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:

(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;

(B) Construction and equipment installation times as appropriate;

(C) Timing for complying with all required permit actions; and

(D) Such other elements as the department might require;

(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;

(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause him to fail to comply with his recycling or treatment plan. The owner/operator must also describe what actions he would take in the event that such occurrences or situations happen;

(vii) Be approved by the department. The plan shall not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and

(viii) Include any other elements that the department might require.

(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:

(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or otherwise treat dangerous waste; or

(ii) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment, recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

(iii) The owner/operator of a surface impoundment or waste pile has demonstrated, through his permit, closure plan or other instrument, that the impoundment or pile is being operated as a land disposal unit and that it will be closed as a landfill.

(6) Labeling for containers and tanks. The owner or operator must label containers and tanks in a manner which adequately identifies the major risk(s) associated with the contents for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320. For tanks, the label or sign shall be legible at a distance of at least fifty feet. For containers, the owner or operator must affix labels upon transfer of dangerous waste from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-395, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-395, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-395, filed 2/10/82.]

WAC 173-303-400 Interim status facility standards. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status shall apply to all facilities which comply

fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards shall also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status shall end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(7).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Persons disposing of dangerous waste by underground injection which is permitted under the Safe Drinking Water Act;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes;

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise; and

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(d) The owner or operator of an interim status facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those special wastes which he manages and only after the owner or operator has requested and the department has issued a notice of interim status modification.

(3) Standards.

(a) Interim status standards shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Subparts F through R which are incorporated by reference into this regulation (including, by

reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140 and the facility requirements of WAC 173-303-280 through 173-303-440;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R to the state of Washington facilities, the federal terms shall have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, shall be replaced with) the following state of Washington meanings:

(i) "Regional administrator" shall mean the "department";

(ii) "Hazardous" shall mean "dangerous"; and

(iii) "Compliance procedure" shall have the meaning set forth in WAC 173-303-040, Definitions.

(c) In addition to the changes described in (b) of this subsection, the following modifications shall be made to interim status standards of 40 CFR Part 265 Subparts F through R:

(i) The words "the effective date of these regulations" shall mean:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date shall be the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-103 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-103 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date shall be the date on which the wastes become regulated.

(ii) "Subpart N - landfills" shall have an additional section added which reads: "An owner/operator shall not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 to 173-303-103, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" shall have an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-103";

(iv) "Subpart M - land treatment," section 265.273(b) shall be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) shall include the requirement that: "Ground-water monitoring wells shall be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" shall have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H"; and

(vii) "Subpart J - tank systems" section 265.193(a) shall be modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) shall be modified so that the dates by which an assessment of a tank system's integrity must be completed are the same as the dates in WAC 173-303-640 (2)(a).

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-400, filed 1/4/89; 88-02-057 (Order DE 83-36), § 173-303-400, filed 1/5/88, effective 2/5/88; 87-14-029 (Order DE-87-4), § 173-303-400, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-400, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-400, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-400, filed 2/10/82.]

WAC 173-303-420 Siting standards. (1) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.

(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.

(3) Earthquake fault criteria.

(a) Active portions of new TSD facilities will not be located within two hundred feet of a fault which has had displacement in Holocene times. For facilities managing moderate risk waste only, engineering efforts, as approved by the department, may be substituted for the two hundred-foot buffer zone.

(b) As used in (a) of this subsection:

(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;

(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and

(iii) "Holocene" means the most recent epoch of the Quarternary period, extending from the end of the Pleistocene to the present.

(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection.

Chelan	Grant	Lewis	Skagit
Clallam	Grays Harbor	Mason	Skamania
Clark	Jefferson	Okanogan	Snohomish
Cowlitz	King	Pacific	Thurston
Douglas	Kitsap	Pierce	Wahkiakum
Ferry	Kittitas	San Juan	Whatcom
			Yakima

Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-420, filed 4/18/84.]

WAC 173-303-430 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-430, filed 3/11/88; 84-09-088 (Order DE 83-36), § 173-303-430, filed 4/18/84.]

WAC 173-303-440 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 88-07-039 (Order 87-37), § 173-303-440, filed 3/11/88; 84-09-088 (Order DE 83-36), § 173-303-440, filed 4/18/84.]

WAC 173-303-500 Recycling requirements for state-only dangerous waste. (1) Applicability. This section applies to the recycling of state-only dangerous waste that are not regulated as hazardous wastes (defined in WAC 173-303-040(39)) by EPA.

(2) Standards.

(a) If state-only dangerous wastes are recycled in any of the ways described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the respective requirements of WAC 173-303-505 through 173-303-525, except as provided in (c) of this subsection.

(b) If state-only dangerous wastes are recycled in any way not specifically described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the requirements of WAC 173-303-120(4), except as provided in (c) of this subsection.

(c) Recyclers who receive state-only dangerous wastes from off-site and who store the wastes in containers or tanks may, in lieu of the provisions for storing dangerous wastes prior to recycling, comply with:

(i) WAC 173-303-060;

(ii) WAC 173-303-370 (if the dangerous waste received must be accompanied by a manifest); and

(iii) The following requirements, provided that the dangerous waste is recycled within ninety days of the date it is received by the recycler:

(A) WAC 173-303-330 through 173-303-360;

(B) WAC 173-303-630 (2), (3), (4), (5), (6), (8) and (9), for containers;

(C) WAC 173-303-640 (3), (4), (5), (6) and (7), for tanks; and

(D) WAC 173-303-630(7) for new container areas installed after September 30, 1986, and WAC 173-303-640(2) for new tanks installed after September 30, 1986.

(d) The department may require a recycler who is storing his waste under the provisions of (c) of this subsection to comply with the provisions for storing dangerous waste prior to recycling specified in WAC 173-303-505 through 173-303-525 and 173-303-120(4) if:

(i) The recycler fails to comply with the requirements of (c) of this subsection; or

(ii) The department determines, on a case-by-case basis, that the requirements of (c) of this subsection do not adequately protect public health or the environment.

(3) Relief from standards. The owner/operator of a facility recycling dangerous wastes under the provisions of this section may ask the department to provide relief from any of the applicable requirements of this section.

(4) Floodplain criteria.

(a) A facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a one hundred-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a one hundred-year flood. Contingency procedures for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:

(i) "One hundred-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "One hundred-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW).

(a) Areas defined as "wetlands" under RCW 90.58-.030 (2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523).

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-420, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-420, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-420, filed 6/26/87. Statutory Authority: RCW 70.105.200 through 70.105.270. 87-03-014 (Order 86-37), § 173-303-420, filed 1/13/87.

Requests for relief must be submitted as described in (a) of this subsection. Requests for relief will be approved or denied as described in (b) of this subsection.

(a) A request for relief must be submitted by the recycler to the department in writing and must describe the standards from which the recycler is seeking relief. The request must include:

(i) The facility name, EPA/state identification number, address, telephone number, and a contact person at the facility;

(ii) The waste(s) managed at the facility and the type(s) recycling;

(iii) The specific standards from which the owner/operator seeks relief;

(iv) A description, for each standard, demonstrating:

(A) Why the owner/operator believes the standard to be unnecessary;

(B) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(C) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(v) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required may result in the department's denying the owner's/operator's request.

(b) The department will review any requests submitted pursuant to (a) of this subsection, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the recycler of its decision in writing. If the department decides to approve all or part of the request and the recycler agrees with the department's decision, then the department will proceed to grant the approval as described below. No approval shall be effective until the procedures described below have been completed.

(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.

(ii) For all other types of recycling facilities, the department shall issue a notice of modification stating what standards will be applied. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of modification.

(c) Failure to comply with the conditions and standards as stated in the permit or notice of modification issued under (b) of this subsection shall form a basis for modifying or revoking the permit or notice of modification.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-500, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-500, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-500, filed 2/10/82.]

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal.

(1) Applicability.

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of WAC 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-505, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-505, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-505, filed 4/18/84.]

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability.

(a) This section applies to dangerous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. Such dangerous wastes burned for energy recovery are termed "dangerous waste fuel." Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel. (These regulations do not apply, however, to gas recovered from dangerous waste management activities when such gas is burned for energy recovery.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC 173-303-101 through 173-303-103; or

(C) Is a dangerous waste designated solely as W001.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-101 through 173-303-103 is subject to this section.

(ii) (Reserved.)

(2) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number; and

(ii) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in only the following devices;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(3) Standards applicable to generators of dangerous waste fuel.

(a) Generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who market dangerous waste fuel to a burner also are subject to subsection (5) of this section.

(c) Generators who are burners also are subject to subsection (6) of this section.

(4) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(5) Standards applicable to marketers of dangerous waste fuel.

Persons who market dangerous waste fuel are termed "marketers," and are subject to the following requirements. Marketers include generators who market dangerous waste fuel directly to a burner, persons who receive dangerous waste from generators and produce, process, or blend dangerous waste fuel from these dangerous wastes, and persons who distribute but do not process or blend dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (2) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a marketer has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who are marketers of dangerous waste fuel, the applicable provisions of WAC 173-303-200 or 173-303-201;

(ii) For all marketers who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-420; and

(C) WAC 173-303-800 through 173-303-840;

(iii) For marketers with interim status permits who store dangerous waste fuel, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For marketers with final status permits who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a marketer initiates a shipment of dangerous waste fuel;

(e) Required notices.

(i) Before a marketer initiates the first shipment of dangerous waste fuel to a burner or another marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(A) The burner or marketer has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (2)(b) of this section.

(ii) Before a marketer accepts the first shipment of dangerous waste fuel from another marketer, he must provide the other marketer with a one-time written and signed certification that he has notified the department under WAC 173-303-060 and identified his dangerous waste fuel activities; and

(f) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-210 and 173-303-380, a marketer must keep a copy of each certification notice he receives or sends for three years from the date he last engages in a dangerous waste fuel marketing transaction with the person who sends or receives the certification notice.

(6) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (2)(b) of this section that burn dangerous fuel are "burners" and are subject to the following requirements:

(a) Prohibitions. The prohibitions under subsection (2)(b) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a burner has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-420; and

(C) WAC 173-303-800 through 173-303-840;

(iii) For burners under interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For burners with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(ii) He will burn the fuel only in a boiler or furnace identified in subsection (2)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives dangerous waste fuel from that marketer.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-510, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-510, filed 3/11/88; 86-12-057 (Order DE-85-10), § 173-303-510, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-510, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-510, filed 2/10/82.]

WAC 173-303-515 Special requirements for used oil burned for energy recovery. (1) Applicability.

(a) This section applies to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits any characteristic of a dangerous waste identified in WAC 173-303-090; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001.

(b)(i) This section does not apply to used oil burned for energy recovery that is mixed with a listed waste (except as provided in (a)(iii) of this subsection) or that is designated as EHW through WAC 173-303-084 or 173-303-101 through 173-303-103. Such used oil is subject to the requirements of WAC 173-303-510.

(ii) Used oil containing more than 1000 ppm of total halogens is presumed to be a dangerous waste because it has been mixed with halogenated dangerous waste listed in WAC 173-303-9903 or 173-303-9904. Such dangerous wastes are subject to the requirements of WAC 173-303-510. Persons may rebut this presumption by demonstrating that the used oil does not contain dangerous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated dangerous constituents listed in WAC 173-303-9905).

(iii) This section does not apply to used oil that is designated for any reason other than being listed as W001 if such used oil is burned for energy recovery by the generator of the used oil in his own marine or diesel engines.

(c) If a used oil subject to this section does not exceed any of the specifications of Table 1, it is subject only to the analysis and recordkeeping requirements under subsection (4)(b)(i) and (vi) of this section; otherwise, it is subject to all applicable provisions of this section.

(d) For the purposes of this chapter:

(i) "Used oil" means any oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities;

(ii) Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatments;

(iii) Used oil fuel that exceeds any specification level (described in Table 1) is termed "off-specification used oil fuel."

TABLE 1
USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS
SUBJECT TO THIS SECTION WHEN BURNED FOR ENERGY
RECOVERY

Constituent/property	Allowable level
Arsenic.....	5 ppm maximum
Cadmium.....	2 ppm maximum
Chromium.....	10 ppm maximum
Lead.....	100 ppm maximum
Flash point.....	100° F minimum
Total halogens.....	4,000 ppm maximum*
Polychlorinated Biphenyls.....	2 ppm maximum

*Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under (b)(ii) of this subsection. Such used oil is subject to WAC 173-303-510 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(2) Prohibitions.

(a) A person may market off-specification used oil for energy recovery only:

(i) To burners or other marketers who have notified the department of their used oil management activities stating the location and general description of such activities, and who have an EPA/state identification number; and

(ii) To burners who burn the used oil in an industrial furnace or boiler identified in (b) of this subsection.

(b) Off-specification used oil may be burned for energy recovery in only the following devices:

(i) Industrial furnaces identified in WAC 173-303-040; or

(ii) Boilers, as defined in WAC 173-303-040 that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

(C) Used oil-fired space heaters provided that:

(I) The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(II) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(III) The combustion gases from the heater are vented to the ambient air.

(3) Standards applicable to generators of used oil burned for energy recovery.

(a) Except as provided in (b) and (c) of this subsection generators of used oil are not subject to this section.

(b) Generators who market used oil directly to a burner are subject to subsection (4) of this section.

(c) Generators who burn used oil are subject to subsection (5) of this section.

(4) Standards applicable to marketers of used oil burned for energy recovery.

(a) Persons who market used oil fuel are termed "marketers." However, the following persons are not marketers subject to this section:

(i) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to this section;

(ii) Persons who market only used oil fuel that meets the specification under Table 1 of subsection (1) of this section and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel).

(b) Marketers are subject to the following requirements:

(i) Analysis of used oil fuel. Used oil fuel is subject to regulation under this section unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Prohibitions. The prohibitions under subsection (2)(a) of this section;

(iii) Notification. Notification to the department stating the location and general description of used oil management activities. Even if a marketer has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an EPA/state identification number, he must renotify to identify his used oil management activities.

(iv) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:

(A) An invoice number;

(B) His own EPA/state identification number and the EPA/state identification number of the receiving facility;

(C) The names and addresses of the shipping and receiving facilities;

(D) The quantity of off-specification used oil to be delivered;

(E) The date(s) of shipment or delivery; and

(F) The following statement: "This used oil subject to Washington state department of ecology regulation under WAC 173-303-515;

Note: Used oil that meets the definition of combustible liquid (flash point below 200°F but at or greater than 100°F) or flammable liquid (flash point below 100°F) is subject to Department of Transportation Hazardous Materials Regulations at 49 CFR Parts 100-177.

(v) Required notices.

(A) Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(I) The burner or marketer has notified the department stating the location and general description of his used oil management activities; and

(II) If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(B) Before a marketer accepts the first shipment of off-specification used oil from another marketer subject to the requirements of this subsection, he must provide the marketer with a one-time written and signed notice certifying that he has notified the department of his used oil management activities; and

(vi) Recordkeeping.

(A) Used oil fuel that meets the specification. A marketer who first claims under (b)(i) of this subsection that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three years. Such marketers must also record in an operating log and keep for three years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with dangerous waste or unless it is mixed with used oil so that it no longer meets the specification.

(I) The name and address of the facility receiving the shipment;

(II) The quantity of used oil fuel delivered;

(III) The date of shipment or delivery; and

(IV) A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under (b)(vi)(A) of this subsection.

(B) Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.

(5) Standards applicable to burners of used oil burned for energy recovery.

Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:

(a) Prohibition. The prohibition under subsection (2)(b) of this section;

(b) Notification. Burners of off-specification used oil fuel must notify the department stating the location and general description of used oil management activities, except that owners and operators of used oil-fired space heaters that burn used oil fuel under the provisions of subsection (2)(b)(ii) of this section are exempt from

these notification requirements. Even if a burner has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an identification number, he must renotify to identify his used oil management activities.

(c) Required notices. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department stating the location and general description of his used oil management activities; and

(ii) He will burn the used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(d) Used oil fuel analysis.

(i) Used oil fuel burned by the generator is subject to regulation under this section unless the burner obtains analysis (or other information) documenting that the used oil meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Table 1 of subsection (1) of this section must obtain analyses (or other information) documenting that the used oil meets the specification.

(e) Recordkeeping. A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received. Burners must also keep for three years copies of analyses of used oil fuel as may be required by (d) of this subsection. In addition, he must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives off-specification used oil from that marketer.

(f) Local requirements. Any person who burns used oil for energy recovery, except for burning in used oil-fired space heaters that meet the provisions of subsection (2)(b)(ii) of this section, must comply with the air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-515, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-515, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-515, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-515, filed 6/27/84.]

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries").

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are subject only to the requirements of WAC 173-303-050, 173-303-145 and 173-303-960 if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

- (i) WAC 173-303-280 (2) and (3);
- (ii) WAC 173-303-283;
- (iii) WAC 173-303-290;
- (iv) WAC 173-303-310 through 173-303-360;
- (v) WAC 173-303-380;
- (vi) WAC 173-303-390 (2) and (3);
- (vii) WAC 173-303-395;
- (viii) WAC 173-303-420; and
- (ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

- (i) WAC 173-303-600 through 173-303-650; and
- (ii) WAC 173-303-660.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-520, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-520, filed 3/11/88; 86-12-057 (Order DE-85-10), § 173-303-520, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-520, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-520, filed 2/10/82.]

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements.

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, irridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

- (i) Notification requirements under WAC 173-303-060;
- (ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

- (i) Records showing the volume of these materials stored at the beginning of the calendar year;
- (ii) The amount of these materials generated or received during the calendar year; and
- (iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

- (a) The types of materials accumulated or stored and the amounts accumulated or stored;
- (b) The method of accumulation or storage;
- (c) The length of time the materials have been accumulated or stored before being reclaimed;
- (d) Whether any contaminants are being released into the environment, or are likely to be so released; and
- (e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the

department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-525, filed 6/3/86.]

WAC 173-303-550 Special requirements for facilities managing special waste. (1) Purpose. Special wastes (as defined in WAC 173-303-040(107)) pose less risk to public health and the environment than do other dangerous wastes, therefore, they do not require as high a level of regulation. The purpose of WAC 173-303-550 through 173-303-560 is to set forth those mandatory standards which are minimally acceptable for managing special waste, and the criteria and selective standards which will be applied based on the specific risks posed by such wastes.

(2) Applicability. The requirements of WAC 173-303-550 through 173-303-560 apply to owners and operators of facilities which manage special waste, and are only applicable to such special wastes as are being managed. Whenever a special waste is shipped from a facility, the owner or operator must comply with WAC 173-303-170 through 173-303-230, requirements for generators.

(3) Standards. The owner/operator of a facility managing special wastes must comply with all applicable standards of this chapter unless he requests (as described in subsection (4) of this section) and the department approves (as described in subsection (5) of this section) the application of less stringent standards to his facility. The owner/operator may request relief from any standards except those minimum standards specified in WAC 173-303-560. Failure to comply with an approval issued by the department pursuant to subsection (5) of this section, will be a violation of this chapter. Failure to comply with all applicable requirements of this chapter while the department is considering a request or after a request has been denied will be a violation of this chapter.

(4) Request. The owner/operator may request that less stringent standards be applied to his special waste management activities in any manner or form that he chooses. His request must be submitted in writing to the department, and must include:

(a) The facility name, EPA/state identification #, address, telephone number, and a contact person at the facility;

(b) The special waste(s) managed at the facility and the type(s) of management applied to them;

(c) The specific standards from which the owner/operator seeks relief;

(d) A description, for each standard, demonstrating:

(i) Why the owner/operator believes the standard to be unnecessary;

(ii) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(iii) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(e) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required by this subsection may result in the department's denying the owner's/operator's request.

(5) Approval or denial. The department will review any requests submitted pursuant to subsection (4) of this section, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the owner/operator of its decision in writing. Approval of a request will not be final until the permit has been modified or issued as described in (a) or (b) of this subsection. If the department decides to approve all or part of the request and the owner/operator agrees with the department's decision, then the department will proceed to grant such approval as follows:

(a) Interim status facilities. For a facility which qualifies for interim status (as described in WAC 173-303-805), the department shall issue a notice of interim status modification in accordance with WAC 173-303-805(9) stating what standards the owner/operator must meet;

(b) Final facilities.

(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.

(ii) The department may request that an applicant for a final facility permit submit his planned special waste demonstrations (prepared in accordance with subsection (4) of this section) a maximum of three months prior to submittal of his Part B application.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-550, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-550, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-550, filed 4/18/84.]

WAC 173-303-560 Minimum standards for facilities managing special waste. In no case will the department approve standards for facilities managing special waste which do not include, at a minimum, the following applicable requirements:

- (1) WAC 173-303-060;
- (2) WAC 173-303-283;
- (3) WAC 173-303-350;
- (4) WAC 173-303-360;
- (5) WAC 173-303-370;
- (6) WAC 173-303-380; and
- (7) WAC 173-303-390.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-560, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-560, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-560, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-560, filed 4/18/84.]

WAC 173-303-575 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-575, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-575, filed 2/10/82.]

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-303-280 through 173-303-395 and 173-303-420.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-600, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-600, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-600, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-600, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-600, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-600, filed 2/10/82.]

WAC 173-303-610 Closure and postclosure. (1) Applicability.

(a) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) through (11) of this section, (which concern postclosure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040(75)) at which dangerous waste will remain after closure, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments and waste piles as

specified in WAC 173-303-650(6) and 173-303-660(9), and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and postclosure requirements, any portion of a facility which closes is subject to the applicable closure and postclosure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, postclosure escape of dangerous waste, dangerous constituents, leachate, contaminated run-off, or dangerous waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), or 173-303-670(8) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) Background environmental levels, for any dangerous waste, managed at the facility, which either is listed under WAC 173-303-081 or 173-303-082 or is designated by the characteristics of WAC 173-303-090; and

(ii) At least the designation limits of WAC 173-303-084, or 173-303-101 through 173-303-103 for any dangerous waste, managed at the facility, which is not listed under WAC 173-303-081 or 173-303-082 and is not designated by the characteristics of WAC 173-303-090. In addition to these limits, the department may specify in the closure plan for a facility any lower limits for removal or decontamination which the department deems appropriate.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC

173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). A copy of the approved plan and all revisions to the plan must be furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.) Additionally, for facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(b) The owner or operator must submit a written request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the procedures in WAC 173-

303-800 through 173-303-840. The written request must include a copy of the amended closure plan for approval by the department.

(i) The owner or operator may submit a written request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(ii) The date when he "expects to begin closure" must be either no later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection shall preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes at a dangerous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes;

(B) There is a reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of dangerous wastes at the

dangerous waste management unit or facility. The department may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes;

(B) There is reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a) and (b) of this subsection must be made as follows: The demonstrations in (a) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period.

(5) Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. Within sixty days of completion of closure of each dangerous waste surface impoundment, waste pile, land treatment, and landfill unit, and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Postclosure care and use of property.

(a) Postclosure care for each dangerous waste management unit subject to postclosure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:

(i) Ground water monitoring and reporting as applicable; and

(ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the postclosure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the postclosure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Postclosure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written postclosure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final

closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent postclosure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the postclosure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the postclosure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) The integrity of the cap and final cover or other containment structures where applicable; and

(B) The function of the facility monitoring equipment;

(iii) And the name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period.

(c) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved postclosure plan during the remainder of the postclosure period.

(d) Amendment of plan. The owner or operator must request a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written request must include a copy of the amended postclosure plan for approval by the department.

(i) The owner or operator may submit a written request to the department for a permit modification to amend the postclosure plan at any time during the active life of the facility or during the postclosure care period.

(ii) The owner or operator must submit a written request for a permit modification to authorize a change in the approved postclosure plan whenever:

(A) Changes in operating plans or facility design affect the approved postclosure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan.

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent postclosure plan under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved postclosure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040(39)) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used to manage dangerous wastes;

(B) Its use is restricted under this section; and

(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the postclosure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of postclosure care. No later than sixty days after completion of the established postclosure care period for each dangerous waste disposal unit, the owner or operator must submit to the

department, by registered mail, a certification that the postclosure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under WAC 173-303-620(6).

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-610, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-610, filed 6/26/87; 84-14-031 (Order DE 84-22), § 173-303-610, filed 6/27/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-610, filed 2/10/82.]

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply only to owners and operators of dangerous waste disposal facilities, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, and piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section.

(c) States and the federal government are exempt from the requirements of this section, except that operators of facilities who are under contract with the state or federal government must meet the requirements of this section.

(2) Definitions. As used in this section, the following listed or referenced terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f) and (g) are adopted by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure

cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.143.

(5) Cost estimate for postclosure monitoring and maintenance.

(a) The owner or operator of a facility subject to postclosure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the postclosure cost estimate within thirty days after the department has approved the request to modify the postclosure plan, if the change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the postclosure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the postclosure cost estimate in current dollars

or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted postclosure cost estimate.

(6) Financial assurance for postclosure monitoring and maintenance.

(a) An owner or operator of a facility subject to postclosure monitoring or maintenance requirements must establish financial assurance for postclosure care in accordance with the approved postclosure care plan. He must choose from the following options or combination of options:

(i) Postclosure trust fund;

(ii) Surety bond guaranteeing payment into a postclosure trust fund;

(iii) Surety bond guaranteeing performance of postclosure care;

(iv) Postclosure letter of credit;

(v) Postclosure insurance; or

(vi) Financial test and corporate guarantee for postclosure care.

(b) In satisfying the requirements of financial assurance for facility postclosure care in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.145.

(7) Use of a mechanism for financial assurance of both closure and postclosure care. An owner or operator may satisfy the requirements for financial assurance for both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) or, when applicable, (g).

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-

040(75)) used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b) or, when applicable, (g).

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040(75)), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section shall contain the wording specified by 40 CFR 264.151, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the word "department";

(b) The words "hazardous waste" must be replaced with the words "dangerous waste"; and

(c) Any other words specified by the department shall be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-620, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-620, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-620, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-620, filed 2/10/82. Formerly WAC 173-302-340.]

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response

personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: *Provided, That:*

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) EHW in containers must be protected from the elements by means of a building or other protective covering that otherwise allows adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the Uniform Fire Code's "*American Table of Distances for Storage of Explosives*," Table 77-201, 1979 edition.

(b) The owner or operator shall design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, "*Flammable and Combustible Liquids Code*," shall be used. The owner/operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes shall be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-630, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-630, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-630, filed 2/10/82.]

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b) and (c) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the test method described in WAC 173-303-110 (3)(c)(i) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;

(ii) Dangerous characteristics of the waste(s) that have been and will be handled;

(iii) Existing corrosion protection measures;

(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting other than a leak test.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

- (i) Design standard(s) according to which tank system(s) are constructed;
- (ii) Dangerous characteristics of the waste(s) to be handled;
- (iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

- (A) Factors affecting the potential for corrosion, including but not limited to:
 - (I) Soil moisture content;
 - (II) Soil pH;
 - (III) Soil sulfides level;

- (IV) Soil resistivity;
- (V) Structure to soil potential;
- (VI) Influence of nearby underground metal structures (e.g., piping);
- (VII) Existence of stray electric current;
- (VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

- (I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;
- (II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and
- (III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

- (v) Design considerations to ensure that:
 - (A) Tank foundations will maintain the load of a full tank;
 - (B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone subject to the standards of WAC 173-303-420(3); and
 - (C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

- (i) Weld breaks;
- (ii) Punctures;
- (iii) Scrapes of protective coatings;
- (iv) Cracks;

(v) Corrosion;

(vi) Other structural damage or inadequate construction/installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new tank systems or components, prior to their being put into service;

(ii) For all existing tank systems used to store or treat Dangerous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1989;

(iii) For those existing tank systems of known and documented age, within two years after January 12,

1989, or when the tank system has reached fifteen years of age, whichever comes later;

(iv) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1989; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches fifteen years of age, or within two years of January 12, 1989, whichever comes later; and

(v) For tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, within the time intervals required in (a)(i) through (iv) of this subsection, except that the date that a material becomes a dangerous waste must be used in place of January 12, 1989.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

- (ii) A vault;
- (iii) A double-walled tank; or
- (iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor.

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the ground water, or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the department will consider:

(A) The nature and quantity of the wastes;

(B) The proposed alternate design and operation;

(C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to ground water or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on ground water, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

(B) The potential adverse effects of a release on ground-water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The proximity and withdrawal rates of ground-water users;

(III) The current and future uses of ground water in the area; and

(IV) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(A) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(B) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(A) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(C) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.

(D) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (h)(iv)(A) through (C) of this subsection.

(E) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (h)(iv)(A) through (C) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste shall be marked with labels or signs to identify the waste contained in the tank. The label or sign shall be legible at a distance of at least fifty feet, and shall bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)

(e) All tank systems holding EHW which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring any leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction he finds. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment, except as provided in (d)(ii) of this subsection, must be reported to the department within twenty-four hours of its detection. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 CFR Part 302.

(ii) A leak or spill of dangerous waste is exempted from the requirements of (d) of this subsection if it is:

(A) Less than or equal to a quantity of one pound, or the "Reportable Quantity" (RQ) established in 40 CFR Part 302, whichever is less; and

(B) Immediately contained and cleaned-up.

(iii) Within thirty days of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous

waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must locate the tanks in a manner equivalent to the National

Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the NFPA-30 *Flammable and Combustible Liquids Code* - 1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator shall also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

(11) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

In addition to the other requirements of this section and until the requirements of subsections (2), (3) and (4) of this section are fully effective, the following requirements apply to tanks storing or treating dangerous wastes F020, F021, F022, F023, F026, or F027.

(a) Tanks must have systems designed and operated to detect and adequately contain spills or leaks. The design and operation of any containment system must reflect consideration of all relevant factors, including:

(i) Capacity of the tank;

(ii) Volumes and characteristics of wastes stored or treated in the tank;

(iii) Method of collection of spills or leaks;

(iv) The design and construction materials of the tank and containment system; and

(v) The need to prevent precipitation and run-on from entering into the system.

(b) As part of the contingency plan required by WAC 173-303-350, the owner or operator must specify such procedures for responding to a spill or leak from the tank into the containment system as may be necessary to protect human health and the environment. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-640, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-640, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-640, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-640, filed 2/10/82. Formerly chapter 173-302 WAC.]

WAC 173-303-645 Ground water protection. (1) Applicability.

(a) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in surface impoundments, waste piles, land treatment units, or landfills. The owner or operator must satisfy the requirements of this section for all wastes (or constituents thereof) contained in any such waste management unit at the facility that is a "regulated unit" (as defined in WAC 173-303-040(75)). Any waste or waste constituent migrating beyond the waste management area under subsection (6)(b) of this section, is assumed

to originate from a regulated unit unless the owner or operator can prove to the satisfaction of the department that such waste or waste constituent originated from another source.

(b) The owner or operator is not subject to regulation under this section if:

(i) He designs and operates a surface impoundment in compliance with WAC 173-303-650(3) (except as provided for surface impoundments treating or storing EHW), a pile in compliance with WAC 173-303-660 (1)(c), (3), or (4), or a landfill in compliance with WAC 173-303-665(3);

(ii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the postclosure care period; or

(iii) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the postclosure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, waste contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the postclosure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section;

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, entering the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the groundwater protection standard in the facility permit when dangerous constituents have entered the groundwater from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX (this list is available from the department upon request), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a

regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1. Maximum Concentration of Constituents for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1
2,4,5-TP Silvex	0.01

¹Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b) (i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point

of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit; and

(ii) Represent the quality of ground water passing the point of compliance.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata.

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of groundwater quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) Where appropriate, the ground water monitoring program must establish background ground water quality for each of the dangerous constituents or monitoring parameters or constituents specified in the permit.

(i) In the detection monitoring program under subsection (9) of this section, background ground water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

(ii) In the compliance monitoring program under subsection (10) of this section, background ground water quality for a dangerous constituent must be based on data from upgradient wells that:

(A) Is available before the permit is issued;

(B) Accounts for measurement errors in sampling and analysis; and

(C) Accounts, to the extent feasible, for seasonal fluctuations in background ground water quality if such fluctuations are expected to affect the concentration of the dangerous constituent.

(iii) Background ground water quality may be based on sampling of wells that are not upgradient from the waste management area where:

(A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

(B) Sampling at other wells will provide an indication of background ground water quality that is as representative or more representative than that provided by the upgradient wells.

(iv) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of one sample from each well and a minimum of four samples from the entire system used to determine background ground water quality, each time the system is sampled.

(h) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(i) If, in a detection monitoring program, the level of a constituent at the compliance point is to be compared to the constituent's background value and that background value has a sample coefficient of variation less than 1.00:

(A) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's t-test as described in Appendix IV of 40 CFR Part 264. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(B) The owner or operator may use an equivalent statistical procedure for determining whether a statistically significant change has occurred. The department will specify such a procedure in the facility permit if it finds that the alternative procedure reasonably balances the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit in a manner that is comparable to that of the statistical procedure described in (h)(i)(A) of this subsection; and

(ii) In all other situations in a detection monitoring program and in a compliance monitoring program, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of dangerous constituents from a regulated unit into and through the aquifer will be indicated. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(B) Provides a reasonable balance between the probability of falsely identifying a noncontaminating regulated unit and the probability of failing to identify a contaminating regulated unit.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must establish a background value for each monitoring parameter or constituent specified in the permit pursuant to (a) of this subsection. The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values. The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values. The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section. In taking samples used in the determination of background values, the owner or operator must use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section.

(d) The owner or operator must determine ground water quality at each monitoring well at the compliance point at least semiannually during the active life of a regulated unit (including the closure period) and the postclosure care period. The owner or operator must express the ground water quality at each monitoring well in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8)(d) and (e) of this section.

(g) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to (a) of this subsection, each time he determines ground water quality at the compliance point under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent, according to the statistical procedure specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each

monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(h) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase for parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what parameters or constituents have shown statistically significant increases;

(ii) Immediately sample the ground water in all monitoring wells and determine the concentration of all constituents identified in 40 CFR Part 264 Appendix IX, and all other dangerous constituents not listed in 40 CFR Part 264 Appendix IX, but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that are present in ground water;

(iii) Establish a background value for each constituent identified in 40 CFR Part 264 Appendix IX, and all other dangerous constituents not listed in 40 CFR Part 264 Appendix IX, but which are specified in the facility permit pursuant to subsection (4)(a) of this section, that has been found at the compliance point under (h)(ii) of this subsection, as follows:

(A) The owner or operator must comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) The owner or operator must express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) In taking samples used in the determination of background values, the owner or operator must use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section;

(iv) Within a maximum of forty-five days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration of any constituents identified in 40 CFR Part 264 Appendix IX, and any other dangerous constituents not listed in 40 CFR Part 264 Appendix IX, but which are specified in the facility permit pursuant to subsection (4)(a) of this section, found in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical procedures used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent found at the compliance point, a proposed concentration limit under

subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek a variance under subsection (5)(b) of this section; and

(v) Within ninety days, submit to the department:

(A) All data necessary to justify any variance sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan necessary to meet the requirements of subsection (11) of this section, unless:

(I) All dangerous constituents identified under (h)(ii) of this subsection, are listed in Table I of subsection (5) of this section, and their concentrations do not exceed the respective values given in that table; or

(II) The owner or operator has sought a variance under subsection (5)(b) of this section, for every dangerous constituent identified under (h)(ii) of this subsection.

(i) If the owner or operator determines, pursuant to (g) of this subsection, that there is a statistically significant increase of parameters or constituents specified pursuant to (a) of this subsection, at any monitoring well at the compliance point, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (h)(iv) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (h)(iv) of this subsection, unless the demonstration made under this subsection successfully shows that a source other than his regulated unit(s) caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase at the compliance point that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and

(iv) Continue to monitor in accordance with the detection monitoring program established under this section.

(j) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(k) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) Where a concentration limit established under (a)(ii) of this subsection, is based on background ground water quality, the department will specify the concentration limit in the permit as follows:

(i) If there is a high temporal correlation between upgradient and compliance point concentrations of the dangerous constituents and parameters, the owner or operator may establish the concentration limit through sampling at upgradient wells each time ground water is sampled at the compliance point. The department will specify the procedures used for determining the concentration limit in this manner in the permit. In all other cases, the concentration limit will be the mean of the pooled data on the concentration of the dangerous constituent or parameter;

(ii) If a dangerous constituent from Table 1 under subsection (5) of this section is identified and the difference between the respective concentration limit in Table 1 and the background value of that constituent under subsection (8)(g) of this section is not statistically significant, the owner or operator must use the background value of the constituent as the concentration limit. In determining whether this difference is statistically significant, the owner or operator must use an approved statistical procedure providing reasonable confidence that a real difference will be indicated. The statistical procedure must:

(A) Be appropriate for the distribution of the data used to establish background values; and

(B) Provide a reasonable balance between the probability of falsely identifying a significant difference and the probability of failing to identify a significant difference; and

(iii) The owner or operator must:

(A) Comply with subsection (8)(g) of this section, in developing the data base used to determine background values;

(B) Express background values in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section; and

(C) Use a ground water monitoring system that complies with subsection (8)(a)(i), (b), and (c) of this section.

(d) The owner or operator must determine the concentration of dangerous constituents and parameters in ground water at each monitoring well at the compliance point at least quarterly during the compliance period. The owner or operator must express the concentration at each monitoring well in a form necessary for the determination of statistically significant increases under subsection (8)(h) of this section.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The owner or operator must analyze samples from all monitoring wells at the compliance point for constituents identified in 40 CFR Part 264 Appendix IX, and any other dangerous constituents not listed in 40 CFR Part 264 Appendix IX, but which are specified in the facility permit pursuant to subsection (4)(a) of this section at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer. If the owner or operator finds constituents identified in 40 CFR Part 264 Appendix IX, and any other dangerous constituents not listed in 40 CFR Part 264 Appendix IX, but which are specified in the facility permit pursuant to subsection (4)(a) of this section in the ground water that are not identified in the permit as dangerous constituents, he must report the concentrations of these additional constituents to the department within seven days after completion of the analysis.

(g) The owner or operator must use procedures and methods for sampling and analysis that meet the requirements of subsection (8)(d) and (e) of this section.

(h) The owner or operator must determine whether there is a statistically significant increase over the concentration limits for any dangerous constituents specified in the permit each time he determines the concentration of dangerous constituents in ground water at the compliance point.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground water quality at each monitoring well at the compliance point for each dangerous constituent to the concentration limit for that constituent according to the statistical procedures specified in the permit under subsection (8)(h) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point, within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(i) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection

standard is being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(j) If the owner or operator determines, pursuant to (h) of this subsection, that the ground water protection standard is being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (i)(ii) of this subsection, he is not relieved of the requirement to submit a permit modification application within the time specified in (i)(ii) of this subsection, unless the demonstration made under this paragraph successfully shows that a source other than a regulated unit caused the increase or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(k) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(l) The owner or operator must assure that monitoring and corrective action measures necessary to achieve compliance with the ground water protection standard under subsection (3) of this section, are taken during the term of the permit.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements

for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary. The permit will specify the measures to be taken.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-645, filed 1/4/89; 84-09-088 (Order DE 83-36), § 173-303-645, filed 4/18/84.]

WAC 173-303-650 Surface impoundments. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report shall be certified by a licensed professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overflowing; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the

liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

- (i) Immediately shut off the flow or stop the addition of wastes into the impoundment;
- (ii) Immediately contain any surface leakage which has occurred or is occurring;
- (iii) Immediately stop the leak;
- (iv) Take any other necessary steps to stop or prevent catastrophic failure;
- (v) Empty the impoundment, if a leak cannot be stopped by any other means; and
- (vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

- (i) A procedure for complying with the requirements of (b) of this subsection; and
- (ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

- (i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not

required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the post-closure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-650, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-650, filed 3/11/88; 86-12-057 (Order DE-85-10), § 173-303-650, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-650, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-650, filed 2/10/82.]

WAC 173-303-655 Land treatment. (1) Applicability. The regulations in this subpart apply to owners and operators of facilities that treat or dispose of dangerous waste in land treatment units, except as WAC 173-303-600 provides otherwise.

(2) Treatment program.

(a) An owner or operator subject to this section must establish a land treatment program that is designed to ensure that dangerous constituents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The department will specify in the facility permit the elements of the treatment program, including:

(i) The wastes that are capable of being treated at the unit based on a demonstration under subsection (3) of this section;

(ii) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with subsection (4)(a) of this section; and

(iii) Unsaturated zone monitoring provisions meeting the requirements of subsection (6) of this section.

(b) The department will specify in the facility permit the dangerous constituents that must be degraded, transformed, or immobilized under this section. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents which, although not listed in WAC 173-303-9905, cause a waste to be regulated under this chapter, that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The department will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below, and including, the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of dangerous constituents. The maximum depth of the treatment zone must be:

(i) No more than 1.5 meters (5 feet) below the initial soil surface; and

(ii) More than 3 meters (10 feet) above the seasonal high water table; except that the owner or operator may demonstrate to the satisfaction of the department that a distance of less than 3 meters will be adequate. In no case shall the distance be less than 1 meter.

(3) Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that dangerous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under (a) of this subsection, he must obtain a land treatment demonstration permit under WAC 173-303-808. The department will specify in this permit the

testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in (c) of this subsection.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under (a) of this subsection must:

(i) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(A) The characteristics of the waste and of dangerous constituents present;

(B) The climate in the area;

(C) The topography of the surrounding area;

(D) The characteristics and depth of the soil in the treatment zone; and

(E) The operating practices to be used at the unit;

(ii) Be likely to show that dangerous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(iii) Be conducted in a manner that protects human health and the environment considering:

(A) The characteristics of the waste to be tested;

(B) The operating and monitoring measures taken during the course of the test;

(C) The duration of the test;

(D) The volume of waste used in the test; and

(E) In the case of field tests, the potential for migration of dangerous constituents to ground water or surface water.

(4) Design and operating requirements. The department will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this subsection.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of dangerous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accordance with all design and operating conditions that were used in the treatment demonstration under subsection (3) of this section. At a minimum, the department will specify in the facility permit:

(i) The rate and method of waste application to the treatment zone;

(ii) Measures to control soil pH;

(iii) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and

(iv) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of dangerous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of

preventing flow onto the treatment zone during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(ii) Improper functioning of wind dispersal control measures.

(5) Food chain crops. The department may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this subsection. The department will specify in the facility permit the specific food chain crops which may be grown.

(a)(i) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that dangerous constituents other than cadmium:

(A) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(B) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(ii) The owner or operator must make the demonstration required under (a)(i) of this subsection prior to the planting of crops at the facility for all dangerous constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(iii) In making such a demonstration, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(A) Base the demonstration on conditions similar to those present in the treatment zone, including soil characteristics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(B) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(iv) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone;

(i)(A) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(B) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(C) The cumulative application of cadmium from waste must not exceed 5kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(D) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(ii)(A) Animal feed must be the only food chain crop produced;

(B) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(C) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(D) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with (b)(ii) of this subsection.

(6) Unsaturated zone monitoring. An owner or operator subject to this section must establish an unsaturated zone monitoring program to discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether dangerous constituents migrate out of the treatment zone.

(i) The department will specify the dangerous constituents to be monitored in the facility permit. The dangerous constituents to be monitored are those specified under subsection (2)(b) of this section.

(ii) The department may require monitoring for principal dangerous constituents (PDCs) in lieu of the constituents specified under subsection (2)(b) of this section. PDCs are dangerous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The department will establish PDCs if it finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PDCs will assure treatment at at least equivalent levels for the other dangerous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(i) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(ii) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each dangerous constituent to be monitored under (a) of this subsection. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(i) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(ii) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(iii) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(iv) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with (b)(i) of this subsection.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The department will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

- (i) Sample collection;
- (ii) Sample preservation and shipment;
- (iii) Analytical procedures; and
- (iv) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any dangerous constituent to be monitored under (a) of this subsection, below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under (d) of this subsection, to the background value for that constituent according to the statistical procedure specified in the facility permit under this subsection.

(ii) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(iii) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he must:

(i) Notify the department of his finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

(ii) Within forty-five days, submit to the department an application for a permit modification to amend the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone; and

(iii) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(h) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection, he is not relieved of the requirement to submit concurrently a permit modification application within the forty-five-day period, unless the demonstration made under this subsection successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(iv) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(7) Recordkeeping. The owner or operator must include dangerous waste application dates and rates in the operating record required under WAC 173-303-380.

(8) Closure and postclosure care.

(a) During the closure period the owner or operator must:

(i) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of dangerous constituents within the treatment zone as required under subsection (4)(a) of this section, except to the extent such measures are inconsistent with (a)(viii) of this subsection;

(ii) Continue all operations in the treatment zone to minimize run-off of dangerous constituents as required under subsection (4)(b) of this section;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section;

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated ninety days after the last application of waste to the treatment zone; and

(viii) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of dangerous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with WAC 173-303-610(6) when closure is completed, the owner or operator may submit to the department a certification by an independent qualified soil scientist, in lieu of a licensed professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the postclosure care period the owner or operator must:

(i) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of dangerous constituents in the treatment zone to the extent that such measures are consistent with other postclosure care activities;

(ii) Maintain a vegetative cover over closed portions of the facility;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste, if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section; and

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated one hundred eighty days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under (a)(viii) and (c) of this subsection, if the department finds that the level of dangerous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in (d)(iii) of this subsection. The owner or operator may submit such a demonstration to the department at any time during the closure or postclosure care periods. For the purposes of this subsection:

(i) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all dangerous constituents specified in the facility permit under subsection (2)(b) of this section;

(A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone;

(B) The owner or operator must express background values and values for dangerous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under (d)(iii) of this subsection;

(ii) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively;

(iii) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying dangerous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under WAC 173-303-645 if the department finds that the owner or operator satisfies (d) of this subsection, and if unsaturated zone monitoring under subsection (6) of this section, indicates that dangerous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

(9) Special requirements for ignitable or reactive waste. The owner or operator must not apply ignitable or reactive waste to the treatment zone unless:

(a) The waste is immediately incorporated into the soil so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) and (7); and

(ii) WAC 173-303-395 is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(10) Special requirements for incompatible wastes. The owner or operator must not place incompatible wastes, or incompatible wastes and materials, in or on the same treatment zone, unless WAC 173-303-395 (1)(b) is complied with.

(11) Special requirements for extremely hazardous waste. Under no circumstances will EHW be allowed to remain in a closed land treatment unit after concluding the postclosure care period. If EHW remains at the end of the scheduled postclosure care period specified in the permit, then the department will either extend the postclosure care period, or require that all EHW be disposed of off-site or that it be treated. In deciding whether to extend postclosure care or require disposal or treatment, the department will take into account the likelihood that the waste will or will not continue to degrade in the land treatment unit to the extent that it is no longer EHW. For the purposes of this subsection, EHW will be considered to remain in a land treatment unit if representative samples of the treatment zone are

designated as EHW. Procedures for representative sampling and testing will be specified in the permit.

(12) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, or F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary for land treatment facilities managing dangerous wastes F020, F021, F022, F023, F026, or F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-655, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-655, filed 4/18/84.]

WAC 173-303-660 Waste piles. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.

(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:

(i) Liquids or materials containing free liquids are not placed in the pile;

(ii) The pile is protected from surface water run-on by the structure or in some other manner;

(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and

(iv) The pile will not generate leachate through decomposition or other reactions.

(d) All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).

(2) Design and operating requirements.

(a) A waste pile (except for an existing portion of a waste pile) must have:

(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.

(c) For EHW management, the owner or operator shall submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement shall be certified by a licensed professional engineer.

(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.

(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable

requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;

(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;

(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection; and

(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(i) Notify the department of the condition in writing within seven days after detecting the condition; and

(ii)(A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

(i) Immediately stop adding wastes to the pile;

(ii) Immediately contain any leakage which has occurred or is occurring;

(iii) Immediately cause the leak to be stopped; and

(iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of (c) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by a licensed professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

(i) The containment system has been repaired; and

(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a pile, unless:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395 (1)(b); or

(b)(i) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(ii) The generator complies with WAC 173-303-395 (1)(d).

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395 (1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by the same containment system.

(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395 (1)(b).

(9) Closure and postclosure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must close the facility and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills, WAC 173-303-665(6).

(c)(i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in

accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and postclosure care of a pile must include the cost of complying with the contingent closure plan and the contingent postclosure plan but are not required to include the cost of expected closure under (a) of this subsection.

(10) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in subsection (1)(c) of this section) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, to surface water, or air so as to protect human health and the environment.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-660, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-660, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-660, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-660, filed 2/10/82.]

WAC 173-303-665 Landfills. (1) **Applicability.** The regulations in this section apply to owners and operators of facilities that dispose of dangerous waste in landfills, except as WAC 173-303-600 provides otherwise. No landfill shall be permitted to dispose of EHW, except for the Hanford facility under WAC 173-303-700.

(2) **Design and operating requirements.**

(a) A landfill (except for an existing portion of a landfill) must have:

(i) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to

the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The owner or operator must submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by a licensed professional engineer. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent failure under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(B) Designed and operated to function without clogging through the scheduled closure of the landfill.

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill

during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(f) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(g) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined landfills; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined landfill is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The landfill (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners; and

(iv) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within the time period specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the time period specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of landfills exempt from subsection (2)(a) of this section), and cover systems

(e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(5) Surveying and recordkeeping. The owner or operator of a landfill must maintain the following items in the operating record required under WAC 173-303-380:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each dangerous waste type within each cell.

(6) Closure and postclosure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(i) Provide long-term minimization of migration of liquids through the closed landfill;

(ii) Function with minimum maintenance;

(iii) Promote drainage and minimize erosion or abrasion of the cover;

(iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all postclosure requirements contained in WAC 173-303-610 (7), (8), (9), and (10) including maintenance and monitoring throughout the postclosure care period. The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(iv) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of WAC 173-303-645;

(v) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(vi) Protect and maintain surveyed benchmarks used in complying with subsection (5) of this section.

(c) During the postclosure care period, if liquid leaks into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will modify the permit to require compliance with the requirements of WAC 173-303-645.

(7) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials must not be placed in the same landfill cell, unless WAC 173-303-395 (1)(b) is complied with.

[Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-665, filed 1/5/88, effective 2/5/88; 86-12-057 (Order DE-85-10), § 173-303-665, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-665, filed 4/18/84.]

WAC 173-303-670 Incinerators. (1) Applicability.

(a) Except as WAC 173-303-600 provides otherwise, the regulations in this section apply to owners and operators of facilities that incinerate dangerous waste and to owners and operators who burn dangerous waste in boilers or industrial furnaces in order to destroy them, or who burn dangerous waste in boilers or in industrial furnaces for any recycling purpose and elect to be regulated under this section.

(b) The department may, in establishing permit conditions, exempt the facility from all requirements of this section except subsection (2) of this section, waste analysis, and subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i)(A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

(ii) Contains none of the dangerous constituents listed in WAC 173-303-9905 above significant concentration limits; and

(iii) Is not designated by the dangerous waste criteria of WAC 173-303-101, Toxic dangerous wastes, nor of WAC 173-303-102, Persistent dangerous wastes, nor of WAC 173-303-103, Carcinogenic dangerous wastes.

(c) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC 173-303-807, or with Part B of his permit application, the owner or operator must have included an analysis of his waste feed sufficient to provide all information required by WAC 173-303-807 or 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (under subsection (6)(b) of this section).

(3) Designation of principal organic dangerous constituents and dangerous combustion byproducts. Principal organic dangerous constituents (PODCs) and dangerous combustion byproducts must be treated to the extent required by the performance standards specified in subsection (4) of this section. For each waste feed to be burned, one or more PODCs and dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC 173-303-084 or 173-303-101 through 173-303-103. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as PODCs and dangerous combustion byproducts. Constituents are more likely to be designated as PODCs or dangerous combustion byproducts if they are present in large quantities or concentrations. Trial PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC 173-303-807 for obtaining trial burn permits. Trial dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under subsection (6) of this section, it will meet the following performance standards:

(a)(i) Except as provided in (a)(ii) of this subsection, an incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each PODC designated (under subsection (3) of this section) in its permit for each waste feed. DRE is determined for each PODC from the following equation:

$$DRE = \frac{(W_{in} - W_{out})}{W_{in}} \times 100\%$$

Where:

w_{in} = Mass feed rate of one PODC in the waste stream feeding the incinerator, and

w_{out} = Mass emission rate of the same PODC present in exhaust emissions prior to release to the atmosphere.

(ii) An incinerator burning dangerous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic dangerous constituent (PODCs) designated (under subsection (3) of this section) in its permit. This performance must be demonstrated on PODCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each PODCs from the equation in subsection (4)(a)(i) of this section. In addition, the owner or operator of the incinerator must notify the department of his intent to incinerate dangerous wastes F020, F021, F022, F023, F026, or F027.

(b) Incinerators burning dangerous waste must destroy dangerous combustion byproducts designated under subsection (3) of this section so that the total mass emission rate of these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of PODCs fed into the incinerator.

(c)(i) An incinerator burning dangerous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times \frac{14}{21 - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) The emission standards specified in (c) of this subsection shall be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous wastes shall comply with the applicable air pollution

control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subsection (6) of this section), will be regarded as compliance with subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of subsection (4) of this section, may be evidence justifying modification, revocation, or reissuance of a permit under WAC 173-303-830.

(5) Trial burns and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under subsection (6) of this section, except:

(i) In approved trial burns under WAC 173-303-807; or

(ii) Under exemptions created by WAC 173-303-670(1).

(b) New dangerous wastes may be burned only after operating conditions have been specified in a trial burn permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this

section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806 (4)(f)(iii)(G), as sufficient to ensure compliance with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement of subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

(i) Carbon monoxide (CO) level in the stack exhaust gas;

(ii) Waste feed rate;

(iii) Combustion temperature;

(iv) An appropriate indicator of combustion gas velocity;

(v) Allowable variations in incinerator system design or operating procedures; and

(vi) Such other operating requirements as are necessary to ensure that the performance standards of subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except waste exempted in accordance with subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions;

(ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under (a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

(i) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;

(ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and

(iii) As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be tested at least weekly to verify proper operation, unless the owner or operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contaminated with dangerous waste or waste residues must be decontaminated or removed.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-670, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-670, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-670, filed 2/10/82.]

WAC 173-303-700 Requirements for the Washington state extremely hazardous waste management facility at Hanford. (1) Purpose and applicability. The purpose of this section is to set forth the requirements for the Washington EHW management (EHWM) facility located at Hanford, Washington. It is the only facility within the state that is allowed under law to dispose of EHW (RCW 70.105.050).

(2) Waste acceptance at Hanford.

(a) The state operator shall accept EHW for treatment, storage, or disposal when:

(i) The waste has been specified in the state operator's permit as not requiring prior approval from the department and the state operator sends a copy of each written request for disposal of waste at the EHWM facility to the department, not later than one week after receiving the request; or

(ii) If the waste has not been specified in the state operator's permit, then the department provides written approval that the waste may be accepted at the EHWM

facility. Notices of approval or disapproval shall be provided as soon as possible, but not later than 15 days, after the state operator has notified the department. Written approval from the department is not required in emergencies, as specified; and

(iii) The generator has obtained prior written approval for waste acceptance from the state operator;

(iv) The waste is accompanied by a manifest specified in the generator requirements of WAC 173-303-180, Manifest; and

(v) Waste containers meet the labeling and container condition requirements of WAC 173-303-190.

(b) The state operator may accept DW, as defined in this regulation, for storage, treatment, or disposal when:

(i) All the conditions of EHW acceptance, (a) of this subsection, are met;

(ii) The generator and/or operator shows that no other permitted TSD facility in the state will handle such DW. The generator and/or operator shall refer to:

(A) County or municipal ordinances or solid waste permits forbidding DW disposal at nearby sites;

(B) The EHWM site being the shortest economical haul distance where other remotely located, DW sites may be available; and

(C) Specific rejection or disapproval, in writing, by nearby DW site operators, public or private; and

(iii) The EHWM facility is designed to handle such a request or can be modified to the extent necessary to adequately dispose of the waste.

(c) The state operator, after consulting with the department, may refuse to accept any waste that does not meet the requirements of the acceptance procedures of this subsection until the facts are ascertained, including but not limited to:

(i) The requirement that samples of waste be taken and analyzed; or

(ii) The condition of the containers by physical inspection of the delivery load.

(d) The state operator may accept dangerous waste under emergency conditions if:

(i) An emergency and potential threat to the public health and safety exists;

(ii) the state operator notifies the department as soon as possible;

(iii) The state operator stores the waste upon delivery until the full manifest has been received and approved by the department; and

(iv) The generator is fully apprised that the waste remains his liability until approved under (d)(iii) of this subsection.

(3) Other applicable requirements. The EHWM facility at Hanford shall meet all other requirements of chapter 173-303 WAC, including specific requirements for storage, treatment, transfer and disposal of EHW, and siting, performance, and operation of facilities. The EHWM facility shall also meet the following requirements:

(a) The state operator shall not remove any dangerous waste from the facility without the department's approval;

(b) The state operator shall maintain facilities for telephone and radio contact with the Hanford Reservation security patrol, and include this information with the contingency plan required in WAC 173-303-350;

(c) As a minimum, the state operator shall provide personnel having knowledge and background in the following areas:

(i) Inspecting and checking manifests for completeness and accuracy;

(ii) Applied chemistry as it relates to reactivity, explosiveness, and flammability; and

(iii) Industrial hygiene and/or toxicology of industrial, commercial, and agricultural chemicals, and emergency procedures;

(d) The state operator shall ensure that new personnel have a complete physical examination and annual checkups thereafter. The physician should be alerted to the kinds of materials the employee has been handling, so that more specific analyses can be made. The medical records shall be made a part of the state operator's records as required in WAC 173-303-380(1); and

(e) The state operator shall submit copies of all fee schedules to the department for yearly review and approval. The state operator shall supply, and the department shall use, the following criteria to review such disposal fees:

(i) Their relationship to other fees charged for similar services;

(ii) Reasonable return on investment and profit for the operator; and

(iii) The cost of administration, development, operation, maintenance, and perpetual management of the EHW facility, including administrative costs and perpetual management costs of the department.

(4) Department surveillance.

(a) In addition to the reports required under WAC 173-303-390, facility reports, the EHWM facility operator shall report the following to the department:

(i) Copies of all environmental sampling results during the previous quarter;

(ii) Telephone and written accounts of any accidents or emergencies requiring action under WAC 173-303-360; and

(iii) Complete financial reports during the previous year.

(b) The state operator shall admit the department's duly authorized representative to inspect the site at any reasonable hour of the day. Inspection may cover any of the following:

(i) The site and facilities;

(ii) The waste being delivered, stored, processed, or buried, including the taking of samples, a portion of each sample being given to the operator upon his request;

(iii) The environment, by the drilling of test wells and obtaining of samples; and

(iv) Any records, reports, information, or test results relating to the purpose of this regulation.

The inspection results will be written, filed with the department, and a copy made available to the state operator.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-700, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-700, filed 2/10/82.]

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040(75)), and for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period in accordance with WAC 173-303-800 through 173-303-840.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-420 and 173-303-283 are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR 270.2.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-800, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-800, filed 3/11/88; 84-09-088 (Order DE 83-36), § 173-303-800, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-800, filed 2/10/82.]

WAC 173-303-801 Types of dangerous waste management facility permits. The following types of permits may be issued by the department to carry out the purpose of this regulation.

(1) Permits by rule:

(a) Ocean disposal – See WAC 173-303-802(2);

(b) Underground injection wells – See WAC 173-303-802(3);

(c) Publicly owned treatment works – See WAC 173-303-802(4); and

(d) Totally enclosed treatment facilities and elementary neutralization and wastewater treatment units – See WAC 173-303-802(5).

(2) Emergency permits – See WAC 173-303-804.

(3) Interim status permits – See WAC 173-303-805.

(4) Final facility permits:

(a) Final status TSD permits – See WAC 173-303-806;

(b) Special waste permits – See WAC 173-303-806; and

(c) Recycling permits – See WAC 173-303-806.

(5) Trial burns for dangerous waste incinerator final facility permits – See WAC 173-303-807.

(6) Demonstrations for dangerous waste land treatment final facility permits – See WAC 173-303-808.

(7) Research, development, and demonstration permits – See WAC 173-303-809.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-801, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-801, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-801, filed 2/10/82.]

WAC 173-303-802 Permits by rule. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

- (iii) WAC 173-303-370, manifest system;
- (iv) WAC 173-303-380 (1)(a), operating record;
- (v) WAC 173-303-390(2), annual report; and
- (vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380 (1)(d), and 173-303-390 of the general facility standards; and

(iii) WAC 173-303-283, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

(i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, state waste discharge, pretreatment, etc.); and

(ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under this chapter are necessary to provide such protection; or

(iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-802, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-802, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-802, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-802, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-802, filed 4/18/84.]

WAC 173-303-804 Emergency permits. Requirements for an emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit shall be given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:

(1) May be oral or written. If oral, it shall be followed within five days by a written emergency permit;

(2) Shall not exceed ninety days in duration for dangerous wastes;

(3) Shall not exceed one hundred eighty days in duration for moderate risk wastes;

(4) Shall clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(5) May be terminated by the department at any time without following the decisionmaking procedures of WAC 173-303-840 if the department determines that termination is appropriate to protect public health and the environment;

(6)(a) Shall be accompanied by a public notice that includes:

(i) The name and address of the department;

(ii) The name and location of the permitted TSD facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) The duration of the emergency permit; and

(b) Shall be given public notice by:

(i) Publication in a daily newspaper within the area affected;

(ii) By radio broadcast within the area affected;

(iii) By mailing a copy of the public notice to the persons described in WAC 173-303-840 (3)(e)(i); and

(iv) Any other method reasonably determined to give actual notice of the emergency permit to persons potentially affected by it; and

(7) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-804, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-804, filed 4/18/84.]

WAC 173-303-805 Interim status permits. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC 173-303-281 must be met.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under this chapter provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection shall not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change, the requirements of WAC 173-303-281 are met and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes, the requirements of WAC 173-303-281 are met and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in the ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements,

the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(f) Any revisions to an existing interim status permit must be made on the applicable Part A form(s), (forms 1 or 3 are available from the department). The owner and operator certification page must be signed and included with those sections completed.

(g) Changes under this subsection do not include changes made solely for the purpose of complying with requirements of WAC 173-303-640(4) for tanks and ancillary equipment.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards; or

(e) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283.

(9) Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment

period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-805, filed 1/4/89; 88-18-083 (Order 88-29), § 173-303-805, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-805, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-805, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-805, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-805, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-805, filed 2/10/82.]

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities;

(b) Special waste management facilities; and

(c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC

173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(8), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; and

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across

traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information;

(A) In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.

(Comment: If the county is not listed in WAC 173-303-420 (3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)

(B) If the facility is proposed to be located in a county listed in WAC 173-303-420 (3)(c), the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or

(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(C) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding

factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)

(D) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

(III) If applicable, and in lieu of (a)(xi)(E)(I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.

(E) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC 173-303-420(5).

(F) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC 173-303-420(6).

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must

address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645(9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective

action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks; and

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an

engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with;

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-665(11).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination; or

(d) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283.

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final special waste and recycling facility permits. In lieu of issuing a final special waste or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities or WAC 173-303-550 through 173-303-560 for special waste facilities.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-806, filed 1/4/89; 88-18-083 (Order 88-29), § 173-303-806, filed 9/6/88; 88-07-039 (Order 87-37), § 173-303-806, filed 3/11/88; 87-14-029 (Order DE-87-4), § 173-303-806, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-806, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-806, filed 4/18/84.]

WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits. (1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns shall not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The procedures for requesting and approving trial burns are described in:

(a) Subsection (10) of this section for existing incinerators with interim status permits; and

(b) Subsection (11) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110, or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision

produced by the analytical methods specified or referenced in WAC 173-303-110; and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, shall evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department shall approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O₂, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(7) Certification. The applicant shall submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (6) of this section. This submission shall be made within thirty days of the completion of the trial burn, or later if approved by the department.

(8) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(9) Signatures required. All submissions required under this section shall be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(10) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator shall prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (9) of this section.

(b) If the department approves the trial burn, it shall issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification shall be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator shall complete the trial burn and submit the information described in subsection (6) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results.

(11) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request shall

include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department shall proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit shall include the trial burn plan, and shall establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results shall also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit shall be modified in accordance with WAC 173-303-830 (including minor modifications, if applicable) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval shall be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-807, filed 4/18/84.]

WAC 173-303-808 Demonstrations for dangerous waste land treatment final facility permits. (1) Purpose and applicability. This section is applicable to the owner/operator of a land treatment facility who must demonstrate that his proposed treatment will be successful. The purpose of this section is to allow the department to issue a land treatment demonstration permit.

(2) Permit issuance. The department may issue a land treatment demonstration permit either in advance of or as part of a final facility permit so that the owner/operator of a land treatment facility can make the demonstration required in WAC 173-303-655(3). If issued in advance of the final facility permit, the land treatment demonstration permit shall be issued as described in subsection (3) of this section, as a demonstration permit only. If issued as part of the final facility permit, the land treatment demonstration and final facility permit shall be issued as described in subsection (4) of this section, as a phased permit. The determination for which procedure to follow will be made by the department based on the information submitted by the owner/operator in Part B of the final facility permit application.

(3) Demonstration permit only.

(a) If the department finds that the Part B does not contain enough information regarding the proposed treatment to allow the department to establish permit conditions necessary for compliance with all requirements of WAC 173-303-655, it may issue a land treatment demonstration permit only. The demonstration permit will be issued in accordance with the decision-making procedures of WAC 173-303-840. The demonstration permit may be issued either as a treatment or

disposal permit, will cover only the field test or laboratory analyses, shall contain only those requirements necessary to meet the standards in WAC 173-303-655(3), and shall provide a specific time period for the demonstration. The department may extend the demonstration period as a modification (or minor modification, if applicable) to the demonstration permit.

(b) Within thirty days (unless the department approves a later date) of the end of the treatment demonstration, the owner/operator shall submit a revised Part B to the department containing the results of the field tests or laboratory analyses and all data developed during the demonstration period. The department shall then use the information and Part B to determine whether or not there is adequate information to issue a final facility permit which will incorporate conditions sufficient to provide compliance with all requirements of WAC 173-303-655. If the information is adequate, the department will proceed under WAC 173-303-806 to issue a final facility permit. If the information is not adequate, the department may, as the situation warrants, either issue a modification to the demonstration permit in accordance with the procedures of subsection (3)(a) of this section, or deny the final facility permit application.

(4) Phased permit.

(a) The department may issue a two-phase final facility permit if it finds that, based on information submitted in Part B of the permit application, substantial (although incomplete and inconclusive) information exists upon which to base the issuance of a final facility permit. The phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for making a land treatment demonstration, and a second phase (to become effective after completion of the first phase) for establishing conditions for operation of the land treatment facility.

(b) If the department finds that a phased permit may be issued, it will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the department finds may be necessary under WAC 173-303-655 (3)(c). The department will include conditions in the second phase of the facility permit to attempt to meet all WAC 173-303-655 requirements pertaining to unit design, construction, operation, and maintenance. The department will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

(i) The first phase of the permit will be effective as provided in WAC 173-303-840 (8)(b).

(ii) The second phase of the permit will be effective as provided in (d) of this subsection.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within thirty days of completion of those tests or analyses unless the department approves a later date.

(d) If the department determines that the results of the field tests or laboratory analyses meet the requirements of WAC 173-303-655(3), it will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with WAC 173-303-655, based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed as a minor modification under WAC 173-303-830(4), provided any such change is minor, or otherwise will proceed as a modification under WAC 173-303-830(3).

(ii) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the department will give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in WAC 173-303-840 (8)(b).

(iii) If modifications under WAC 173-303-830(3) are necessary, the second phase of the permit will become effective only after those modifications have been made.

(e) If the department determines that the results of the field tests or laboratory analyses do not meet the requirements of WAC 173-303-655(3), the second phase of the permit will not become effective, and the department will, as the situation warrants, either:

(i) Modify the permit according to WAC 173-303-830(3) to allow for additional field tests or laboratory analyses; or

(ii) Proceed to terminate the permit according to WAC 173-303-840.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-808, filed 4/18/84.]

WAC 173-303-809 Research, development and demonstration permits. (1) The department may issue a research, development, and demonstration permit for any dangerous waste treatment facility which proposes to utilize an innovative and experimental dangerous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under WAC 173-303-500 through 173-303-670. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

(a) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not

longer than one year unless renewed as provided in subsection (4) of this section; and

(b) Shall provide for the receipt and treatment by the facility of only those types and quantities of dangerous waste which the department deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

(c) Shall include such requirements as the department deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the department deems necessary regarding testing and providing of information to the department with respect to the operation of the facility.

(2) For the purpose of expediting review and issuance of permits under this section, the department may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in WAC 173-303-800 through 173-303-840 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(3) The department may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

(4) Any permit issued under this section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-809, filed 6/26/87; 84-14-031 (Order DE 84-22), § 173-303-809, filed 6/27/84.]

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently

is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee shall take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(c) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee shall maintain all records of ground water quality and ground water surface elevations for the active life of the facility, and for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department shall be signed in accordance with this subsection and shall be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator shall be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications shall be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department shall be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any

requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports shall be provided:

(a) Planned changes. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) shall be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule shall be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment. Information shall be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately shall include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he shall promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if the owner/operator indicates to the department the degree of harm if the information is made to the public.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department shall place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-810, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-810, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-810, filed 2/10/82.]

WAC 173-303-815 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-815, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-815, filed 2/10/82.]

WAC 173-303-820 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-820, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-820, filed 2/10/82.]

WAC 173-303-825 (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-825, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-825, filed 2/10/82.]

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under subsection (3) of this section, or a minor modification has been made to identify the new permittee and incorporate such other requirements as stipulated under subsection (4) of this section.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under subsection (3) or (4) of this section, the department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in subsection (4) of this section for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance and which would have justified the application of different permit conditions at the time of issuance;

(iii) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only when:

(A) The permit condition requested to be modified was based on an effective regulation; and

(B) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and either

(I) The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

(II) A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or postclosure. When modification of a closure or postclosure plan is required under WAC 173-303-610 (3) or (8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year postclosure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought

the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the postclosure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-806 (12) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Minor modifications of permits. Unless the permittee indicates otherwise, the department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without following the procedures of WAC 173-303-840. Any permit modification not processed as a minor modification under this section must be made for cause and with a draft permit and public notice as required in WAC 173-303-840. Minor modifications may only be made to:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the department. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits

a revised permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of WAC 173-303-620 (Financial requirements), until the new owner or operator has demonstrated to the department that he is complying with the requirements of that section. The new owner or operator must demonstrate compliance with financial requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with WAC 173-303-620, the department shall notify the old owner or operator in writing that he no longer needs to comply with the financial requirements as of the date of demonstration;

(e) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(f) Change the following:

(i) Estimates of maximum inventory under WAC 173-303-610 (3)(a) (iii);

(ii) Estimates of expected year of closure or schedules for final closure under WAC 173-303-610 (3)(a)(vii); or

(iii) Approve periods longer than ninety days or one hundred eighty days under WAC 173-303-610 (4)(a) or (b);

(g) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor;

(h) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor;

(i) Grant one extension of the time period for determining operational readiness following completion of construction, for up to seven hundred twenty hours operating time for treatment of dangerous waste in an incinerator;

(j) Change the treatment program requirements for land treatment units under WAC 173-303-655(2) to improve treatment of dangerous constituents, provided that the change is minor;

(k) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with WAC 173-303-808, provided that the change is minor; and

(l) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by WAC 173-303-655, provided that the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

(5) Permit termination. The department shall follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows:

(i) The time between interim dates shall not exceed one year; or

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-830, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-830, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-830, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-830, filed 2/10/82.]

WAC 173-303-840 Procedures for decision making.

(1) Application and completeness.

(a) The department will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit. Permit applications must comply with the signature and certification requirements of WAC 173-303-810 (12) and (13).

(b) The department shall review for completeness each application for a permit under this chapter. Each application for a permit should be reviewed for completeness within sixty days of its receipt. Upon completing the review, the department shall notify the applicant in writing whether or not the application is complete. If the application is incomplete, the department shall list the information necessary to make the application complete, and shall specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously

submitted material. Requests for such additional information will not render an application incomplete.

(c) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under chapter 70.105 RCW.

(d) If the department decides that a site visit is necessary for any reason in conjunction with the processing of an application, then the department shall notify the applicant and a date shall be scheduled.

(e) The effective date of an application is the date on which the department notifies the applicant that the application is complete as provided in (b) of this subsection.

(2) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is completed, the department shall tentatively decide whether to prepare a draft permit, or to deny the application.

(c) If the department tentatively decides to deny the permit application, then the department shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this subsection. If the department's final decision is that the tentative decision to deny was incorrect, then the department shall withdraw the notice of intent to deny and proceed to prepare a draft permit under this subsection.

(d) If the department decides to prepare a draft permit, it shall contain the following information:

(i) All conditions applicable to permits under WAC 173-303-810;

(ii) Applicable conditions under WAC 173-303-830; and

(iii) All applicable standards for storage, treatment and disposal, and other permit conditions.

(e) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(f) Fact sheet; statement of basis.

(i) A fact sheet shall be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(ii) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department shall send this fact sheet to the applicant and, on request, to any other person.

(iii) The fact sheet shall include, when applicable:

(A) A brief description of the type of facility or activity which is the subject of the draft permit;

(B) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(C) A brief summary of the basis for the draft permit conditions including supporting references;

(D) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and

(E) A description of the procedures for reaching a final decision on the draft permit including:

(I) The beginning and ending dates of the comment period and the address where comments will be received;

(II) Procedures for requesting a hearing and the nature of that hearing;

(III) Any other procedures by which the public may participate in the final decision; and

(IV) Name and telephone number of a person to contact for additional information.

(iv) The department shall prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(3) Public notice and involvement.

(a) The department shall give public notice that the following actions have occurred:

(i) A draft permit has been prepared or an application is tentatively being denied;

(ii) A hearing on a permit has been scheduled; or

(iii) An appeal on a permit has been filed with the pollution control hearings board.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial shall be given to the person who requested the permit change and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application shall allow at least forty-five days for public comment. Public notice of a public hearing shall be given at least thirty days before the hearing.

(e) Public notice of activities described in this subsection shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, and other appropriate government authorities, including any affected states;

(D) Persons on the mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each state agency having any authority under state law with respect to construction or operation of such facility;

(ii) For major permits, by publication of a notice in a daily or weekly newspaper within the area affected by the facility;

(iii) For all permits, by publication of notice in a daily or weekly major local newspaper of general circulation, and local radio broadcast of the public notice; and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet or statement of basis, and the application;

(v) A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) And any additional information considered necessary or proper.

(b) In addition to the general public notice described in (a) of this subsection, public notice of a hearing under subsection (5) of this section shall contain the following information:

(i) Date, time, and place of the hearing;

(ii) Reference to the date of the previous public notice relating to the permit; and

(iii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(c) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) shall be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(d) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and

may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department shall hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in WAC 173-303-840(3). Whenever possible, the department shall schedule a public hearing under this subsection at a location convenient to the nearest population center to the proposed facility.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) shall automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing shall be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the department. A comment period longer than thirty days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required under subsection (6) of this section, appear to raise substantial new questions concerning a

permit, the department may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department shall issue a final permit decision. The department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision shall become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

(9) Response to comments. At the time that any final permit is issued, the department shall issue a response to comments. This response shall specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing. The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830 (3) and (4), or terminated for the reasons specified in WAC 173-303-805 or 173-303-806. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830(3), it shall prepare the draft permit under WAC 173-303-840(2), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department shall require the submission of a new application.

(c) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the

existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Minor modifications" as defined in WAC 173-303-830(4) are not subject to the requirements of this section.

(e) If the department tentatively decides to terminate an interim status permit under WAC 173-303-805 or a final permit under WAC 173-303-806, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(2).

[Statutory Authority: Chapter 70.105 RCW. 84-14-031 (Order DE 84-22), § 173-303-840, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-840, filed 2/10/82.]

WAC 173-303-845 Appeal of decision. Any person who is adversely affected by a decision of the department under chapter 173-303 WAC may appeal the decision to the pollution control hearings board pursuant to chapter 43.21B RCW.

[Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-845, filed 2/10/82.]

WAC 173-303-900 Public involvement and participation. (1) Intent. Public involvement and participation plays a significant role in the decision making process. The department intends to foster public awareness, information and consultation, and to respond actively to public concerns. The department will inform the public of major issues, proposed projects, and regulatory changes, and will consult interested and affected segments of the public before making important decisions. The overall goal of the department is to provide knowledge to the public about dangerous waste issues that vitally affect the state, to encourage broader understanding of the public role in dangerous wastes and their proper management, and to promote an open dialogue between the public, industry, and government.

(2) Applicable requirements. In fulfilling the intent of public involvement and participation in the decision making process, the department will refer to and, where applicable, follow the requirements and guidance set forth in the following:

(a) Chapter 34.04 RCW, Administrative Procedure Act;

(b) Chapter 34.08 RCW, Washington State Register Act of 1977;

(c) Chapter 42.17 RCW, Public Records Act;

(d) Chapter 197-10 WAC, Guidelines Interpreting and Implementing the State Environmental Policy Act;

(e) 40 CFR Part 25, Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act; and

(f) The Washington state solid waste management plan, December 1980.

[Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-900, filed 2/10/82.]

WAC 173-303-902 Citizen/proponent negotiations.

(1) Intent and purpose. Successful siting of dangerous waste management facilities depends on public confidence, which requires affected communities to have opportunities to meet with owners/operators of proposed dangerous waste management facilities to resolve concerns about such facilities. RCW 70.105.260 authorizes the department to specify a procedure for conflict resolution activities for dangerous waste management facility proponents, host communities, citizens and citizen groups, and to expend funds to support such activities. The purpose of this section is to set forth a procedure for negotiations between affected communities and the proponent of a facility, and the eligibility criteria for financial assistance.

(2) Applicability.

(a) This section applies to local governments and citizens potentially affected by the siting and permitting of a dangerous waste management facility, owners and operators of proposed facilities, and owners and operators of facilities for which interim or final status permit applications have been submitted to the department prior to the effective date of this section. This section also applies to existing facilities with interim or final status for which the department receives an application for expansion. This section only applies to the expanded portion of the existing facility.

(b) A modified citizen/proponent negotiations (CPN) process shall apply to lead local governments who are also proponents of the facility.

(c) This section does not apply to owners/operators of facilities or portions of facilities applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to mobile facilities for on-site cleanup at treatment, storage, or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of sites under the Comprehensive Environmental Response, Compensation, and Liability Act, or chapters 70.105, 90.48 RCW, and The Model Toxics Control Act.

(3) Relationship to other legislation and administrative rules.

(a) The lead local government receiving a grant under this section, shall comply fully with all applicable federal, state, and local laws, orders, regulations, and permits.

(b) Nothing in this section shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to dangerous waste management and disposal.

(c) All grants under this section shall be subject to all existing accounting and auditing requirements of state

laws and regulations applicable to the issuance of grant funds.

(4) Definitions. As used in this section:

(a) "Citizen/proponent negotiations (CPN)" means a communication process, as specified in these regulations and associated guidelines, between the proponent of a dangerous waste management facility and potentially affected citizens, to reach an agreement when there are shared and opposing interests.

(b) "Designated zone facility" means any facility that requires an interim or final status permit, located in a land use zone designated for handling hazardous substances and hazardous waste, and is not a preempted facility as defined in this section.

(c) "Environmental impact statement (EIS)" means an environmental document prepared according to the State Environmental Policy Act (SEPA), that provides decision makers and the public with an impartial discussion of probable significant environmental impacts, reasonable alternatives, and mitigation measures that would avoid impacts, minimize adverse impacts, or enhance environmental quality.

(d) "Existing facility," as defined by WAC 173-303-281, means a facility for which an interim or final status permit has been issued by the department pursuant to WAC 173-303-805 or 173-303-806.

(e) "Expansion," as defined by WAC 173-303-281, means the enlargement of the land surface area of an existing facility from that described in an interim status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

(f) "Facilitator" means one who assists at a meeting or group discussion.

(g) "Grant applicant" means the lead local government requesting a citizen/proponent negotiations grant.

(h) "Lead local government" means the city or county in which all or a majority of the proposed dangerous waste management facility would be located, unless the lead local government is a proponent of the project.

(i) "Local negotiating committee" means a committee, appointed by the lead local government, whose membership consists of broad representation from city and county government, citizen groups, academia, business, industry, Indian tribes, and environmental groups potentially affected by the siting of a dangerous waste management facility.

(j) "Mediator" means a neutral person who is accepted voluntarily by opposing parties in a dispute to assist in reaching a settlement.

(k) "Notice of intent," as specified in WAC 173-303-281, means the notice provided by the owner/operator of a facility to the department, local communities, and the public stating that the siting of a dangerous waste management facility, or the expansion of an existing facility, is being considered.

(l) "Neutral convener" means a nonpartisan person hired by the lead local government to convene and preside over the official public meeting.

(m) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (i) Landfill, (ii) incineration, (iii) land treatment, (iv) surface impoundment to be closed as a landfill, or (v) waste pile to be closed as a landfill.

Local jurisdictions who fail to establish designated land use zones for handling hazardous substances and hazardous waste within eighteen months after the enactment of siting criteria in accordance with RCW 70.105-.210 shall be subject to preemptive provisions until such time as zone designations are completed and approved by the department.

(n) "Potentially affected area" means the area within a twenty-mile radius of a proposed dangerous waste management facility or a proposed expansion to an existing facility or, any area of impact larger or smaller than the twenty-mile radius as determined by the department.

(o) "Proponent" means any person applying to the department for a dangerous waste management facility permit or for the expansion of an existing permit under WAC 173-303-805 or 173-303-806.

(p) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, and for which the owner/operator applies for an interim or final status permit under WAC 173-303-805 or 173-303-806 after the effective date of this section.

(q) "SEPA" means the State Environmental Policy Act, chapter 43.21C RCW, and SEPA rules, chapter 197-11 WAC.

(5) Citizen/proponent negotiations procedures.

(a) Notice of intent. A proponent for a dangerous waste management facility must apply to the department for a dangerous waste management facility permit or for the expansion of an existing permit. In compliance with WAC 173-303-281, the proponent shall submit a notice of intent to the department no less than one hundred fifty days prior to filing an application for a permit or permit revision.

(b) Notice letter.

(i) Within fourteen days of receipt of the notice of intent, the department shall send, by registered mail, a copy of the notice of intent, a copy of the CPN regulation, associated guidelines, and a CPN grant application to the elected officials of the lead local government and all local governments within the potentially affected area.

(ii) The notice letter will alert all communities within the potentially affected area that a notice of intent to file was submitted to the department, the availability of a CPN grant, the procedures for applying for a CPN grant, and the procedures for conducting the CPN process.

(iii) Within thirty days of the effective date of this section, the department shall send, by registered mail, a notice letter to all local governments potentially affected

by facilities for which the department has already received a permit application. The notice letter shall contain a copy of the CPN regulation, associated guidelines, and a CPN grant application.

(iv) If the lead local government is also a proponent of the facility, responsibility for CPN shall be deferred to a committee comprised of representatives from all incorporated cities and towns, and all the counties in the potentially affected area. This committee shall decide, among the government entities represented, who will be the lead local government for the purposes of applying for and administering the CPN grant and selecting members to the negotiating committee as set forth in subsection (6) of this section.

(c) Selection of the neutral convener. Within sixty days of the notice letter, the lead local government and the facility proponent shall jointly select a neutral convener, facilitator, or mediator to organize and preside over an official public meeting, assist in selecting the local negotiating committee, and mediate citizen/proponent negotiations.

(d) The public meeting. The purpose of the public meeting shall be:

(i) To advise local citizens within the potentially affected area of the CPN procedures, the State Environmental Policy Act (SEPA) requirements, and the dangerous waste management permit process;

(ii) To allow the proponent to present elements of the proposal;

(iii) To take public testimony on whether to agree to participate in the CPN process.

(e) Expenditures by the lead local government for the initial costs of the neutral convener and the official public meeting shall be reimbursed by the department through an interagency agreement with the lead local government.

(f) Decision notice. Within forty-five days of the public meeting the lead local government shall decide whether to proceed with the negotiations process. The lead local government shall forward notice of that decision to the department and the proponent of the facility. Notice to the department of an affirmative decision may include a completed grant application for financial assistance. If the lead local government decides to participate in the negotiations process for preempted facilities, then the proponent shall be required to participate. Citizen/proponent negotiations at designated zone facilities will be voluntary for both parties.

(g) Appointment of local negotiating committee. Within thirty days of the decision notice to proceed with CPN, the lead local government and local governments within the potentially affected area shall appoint members to a local negotiating committee, as set forth in subsection (6) of this section, and mail notice of those appointments to the department and to the facility proponent.

(h) Organizational meeting. Within twenty-one days of the committee appointments, the committee shall hold an organizational meeting to establish the committee goals, set schedules, identify tasks, discuss funding, and identify issues to research.

(i) Negotiations process. The negotiations process may occur in two stages.

(i) Stage 1. Within thirty days of the organizational meeting, the local negotiating committee, with the assistance of the neutral convener, shall initiate negotiations and public information and education activities. The local negotiating committee shall have one hundred twenty days, or until completion of the SEPA process, to conduct public information and education activities on dangerous waste management and dangerous waste management facilities and to negotiate emerging issues and concerns.

(ii) Stage 2. Upon completion of the SEPA process, with the assistance of the neutral convener, the local negotiating committee may continue formal negotiations. If no environmental impact statement is required as part of the SEPA process, the local negotiating committee may negotiate for up to one hundred twenty days. If an environmental impact statement is required as part of the SEPA process, negotiations may take place until one hundred twenty days after the issuance of the final environmental impact statement. Upon completion of formal negotiations, all agreements should be submitted to the department for review for applicability to the operating permit.

(iii) Negotiations should focus on the mitigation of impacts identified by persons in the affected area and those impacts identified during the SEPA process, which may include but are not limited to:

- (A) Technical aspects of the facility proposal;
- (B) Emergency response;
- (C) Economic impacts;
- (D) Management of the facility;
- (E) Site characteristics;
- (F) Transportation;
- (G) Compliance assurance.

(iv) During each stage of the negotiations process, the committee shall, at a minimum:

(A) Arrange public forums at key points in the negotiations to solicit input from the local community and provide public education regarding the issues and elements of the proposed facility or facility expansion.

(B) Arrange smaller community gatherings with the whole committee or subgroups of the committee to supplement the larger meetings and to provide more opportunities for discussion with community members.

(C) Meet with key community leaders to solicit information and opinion.

(D) Prepare a draft of the completed local negotiating committee report and agreements. The draft shall be submitted for review and comment to the proponent and local county, city, and town officials who made the committee appointments.

(E) Prepare the final local negotiating committee report and agreements. Final copies shall be submitted to the department and distributed to the proponent and local county, city, and town officials who made the committee appointments.

(v) Negotiations may be reopened upon agreement by both parties as long as a draft permit has not been issued.

(j) Agreements. Any specific agreement reached between the local negotiating committee and the proponent, deemed valid and applicable by the department, may be incorporated in the operating permit issued by the department. Any agreements not applicable to the operating permit may be implemented by the proponent and local communities through a contract or other legal means.

(6) Local negotiating committee.

(a) Appointments to the local negotiating committee shall be made as follows:

(i) Four members shall be appointed by the lead local government.

If the lead local government is the county, committee appointments will be made by the county executive in charter counties or the board of county commissioners. If the lead local government is an incorporated town or city, committee appointments will be made by the mayor.

(ii) The mayor of each incorporated city or town in the potentially affected area, that is not a lead local government, shall appoint one member to the committee.

(iii) The county executive or the board of county commissioners of each county in the potentially affected area, that is not a lead local government, shall appoint one member to the committee.

(iv) Each federally-recognized Indian tribe located in the potentially affected area shall appoint one member to the committee.

(v) If all or the majority of a facility is located wholly within city limits, the board of county commissioners or county executive of the potentially affected county shall appoint two members to the citizen negotiating committee. If the facility is located wholly within the county, these appointments will not be made.

(b) Local negotiating committees shall have broad representation including but not limited to representation from academia, business and industry, citizen organizations, environmental groups, agricultural groups, health professionals, emergency response organizations, and fire districts.

(c) After the initial committee appointments are made, the neutral convener shall assess the group representation and determine which interest groups are not represented. The committee, with the aid of the neutral convener, will then select up to four additional members to serve on the local negotiating committee. These selections shall be made from interest groups not already represented on the negotiating committee.

(d) Elected officials will not be members of the local negotiating committee.

(7) Modified CPN procedures. Modified CPN procedures shall apply to lead local governments who are also proponents of a dangerous waste management facility.

(a) Notice letter. Within fourteen days of the notice of intent or thirty days of the effective date of this section, the department shall notify all local governments in the potentially affected area of applications for proposed facilities or expansions of existing facilities and of the opportunity for formal negotiations under CPN and the availability of a CPN grant.

(b) Decision notice. The local governments shall have forty-five days to form a committee to:

(i) Determine whether they wish to participate in CPN;

(ii) Determine who will be the lead local government;

(iii) Select a neutral convener, facilitator, or mediator;

(iv) Notify the department and the proponent of those decisions; and

(v) Complete a grant application for financial assistance if a decision is made to proceed with CPN.

(c) Once the lead local government is determined, modified CPN procedures shall follow CPN procedures set forth in subsections (5)(d) through (6)(d) of this section.

(8) Grant eligibility and eligible activities.

(a) Grant applicant eligibility and eligible activities shall be the same for CPN and modified CPN.

(b) Grant applicant eligibility. Grants up to fifty thousand dollars shall be awarded to the lead local government and may be renewed once during the permitting process.

(c) Eligible costs. Eligible costs include direct costs of the activities of the negotiating process. These costs include:

(i) The local committee's expenses such as travel, office space or lodging, supplies, postage, report production costs, and meeting room costs;

(ii) Neutral convener's, facilitator's, or mediator's fees and expenses;

(iii) Technical assistance for the committee; and

(iv) Other costs determined necessary by the department.

(d) Ineligible costs. Grant funds may not be used by the grant applicant to support legal actions against the department, or facility owners/operators.

(9) Grant administration and funding.

(a) A grant application package will be sent to the lead local government with the notice letter. Grant application packages include grant application deadlines, grant guidelines, and application forms.

(b) Completed grant applications will be reviewed by the department. To receive a grant offer, successful applications must include all required elements as outlined in the guidelines.

(c) The obligation of the department to make grant awards and payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the appropriation of funds during the next biennium.

(d) The department shall fund up to fifty percent of the total grant amount or up to fifty thousand dollars for citizen/proponent negotiations and the proponent of a dangerous waste management facility shall fund up to fifty percent of the total grant amount or up to fifty thousand dollars.

(e) Disbursement of funds. The department shall be responsible for reimbursement of all eligible CPN costs incurred. The proponent shall enter into a contract with

the department for the proponent's share of the CPN grant. The department will be responsible for all eligible CPN costs incurred before the decision notice and its share of any eligible CPN costs incurred after the decision notice, up to fifty thousand dollars. The proponent shall be responsible for its share of all remaining eligible CPN costs incurred after the decision notice and after an executed grant award is made to the lead local government, up to fifty thousand dollars.

(f) The department, on at least a biennial basis, will determine the amount of funding available for citizen/proponent negotiation grants.

(g) All grantees shall be held responsible for payment of salaries, consultant's fees, and other overhead costs contracted under a grant awarded to the lead local government.

(h) To the extent that the Constitution and laws of the state of Washington permit, the grantee shall indemnify and hold the department harmless from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract, except for such damage, claim, or liability resulting from the negligent act or omission of the department.

(i) All grants under this chapter shall be consistent with the provisions of "Financial Guidelines for Grant Management" WDOE 80-6, May 1980, Reprinted March 1982, or subsequent guidelines adopted thereafter.

[Statutory Authority: RCW 70.105.260 and 1989 c 2. 89-21-071 (Order 89-25), § 173-303-902, filed 10/17/89, effective 11/17/89.]

WAC 173-303-905 Response to requests for public records. RCW 42.17.320 requires that the department, when responding to requests for public records make such responses "promptly." The department often receives requests, submitted pursuant to chapter 42.17 RCW, for public records that exist because of the requirements of or actions mandated by this chapter (such public records are referred to as dangerous waste records). When the department receives requests for such dangerous waste records, then the department shall respond promptly, as required by RCW 42.17.320, and in no event will the response occur later than twenty working days after receipt of the public request submitted pursuant to chapter 42.17 RCW.

[Statutory Authority: Chapter 70.105 RCW. 88-18-083 (Order 88-29), § 173-303-905, filed 9/6/88.]

WAC 173-303-910 Petitions. (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and

(iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice shall be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period shall be a minimum of forty-five days.

(d) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(e) After evaluating all public comments the department will make a final decision in accordance with RCW 34.04.060 or 34.04.080. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.04.025.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) A full description of the proposed method, including all procedural steps and equipment used in the method;

(ii) A description of the types of wastes or waste matrices for which the proposed method may be used;

(iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;

(iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through 173-303-103.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4) and (5).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) The name and address of the laboratory facility performing the sampling or tests of the waste;

(ii) The names and qualifications of the persons sampling and testing the waste;

(iii) The dates of sampling and testing;

(iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4) and (5);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but shall not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 CFR Part 261 Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC 173-303-084 or 173-303-101 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

(6) Petitions to allow land disposal of a waste restricted under WAC 173-303-140.

(a) Any person seeking a land disposal restriction exemption allowed under WAC 173-303-140(6) must submit a petition to the department. The petition must include the following general information:

- (i) The petitioner's name and address;
- (ii) A statement of the petitioner's interest in the proposed action;
- (iii) A description of the proposed action;
- (iv) A statement of the need and justification for the proposed action;
- (v) An identification of the specific waste and the specific land disposal unit for which the exemption is desired;
- (vi) A waste analysis to describe fully the chemical and physical characteristics of the subject waste. All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow; and
- (vii) A quality assurance and quality control plan that addresses all sampling and testing aspects of the information provided in the petition.

(b) In addition to the general information requirements in subsection (a) of this section, the following specific information must be provided in the petition for individual case-by-case exemptions.

(i) Petition for land disposal exemption for treatment residuals. Petitions for exemption of treatment residuals, as allowed under WAC 173-303-140 (6)(a), must:

(A) Provide the type of waste management or treatment method applied to the waste and the rationale for selecting this method as the best achievable management method; and

(B) Document that the land disposal of the treatment residual would not pose a greater risk to public health and the environment than land disposal of the original wastes, including an analysis of the treatment residuals to fully describe their chemical and physical characteristics; and

(C) Provide the management alternatives for the treatment residuals and the factors which, if an exemption is not granted, would prevent the utilization of the best achievable management method for the original dangerous waste.

(ii) Petition for economic hardship exemption. Petitions for exemption on the basis of economic hardship, as allowed under WAC 173-303-140 (6)(b), must:

(A) Supply the current management costs and the projected management costs to comply with the requirements of WAC 173-303-140; and

(B) Provide the source of information utilized in determining the economic estimates; and

(C) Provide a discussion of how the projected compliance costs would impose an unreasonable economic burden.

(iii) Petition for leachable inorganic waste exemption. Petitions for exemption of leachable inorganic wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that the stabilization of the dangerous waste is less protective of public health and the environment than landfilling; or

(B) Provide a list of stabilization facilities that could accept the dangerous waste and information demonstrating that they do not have available capacity to stabilize the waste; or

(C) Provide information describing the types of stabilization utilized which did not reduce the solubility and mobility of the dangerous waste constituents and describe any other stabilization methods that have been considered but not utilized.

(iv) Petition for organic/carbonaceous waste exemption. Petitions for exemption of organic/carbonaceous wastes, as allowed under WAC 173-303-140 (6)(d), must:

(A) Provide information demonstrating that recycling, treatment and incineration facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; or

(B) Provide information demonstrating that the alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization and landfilling; or

(C) Provide information demonstrating that:

(I) Recycling and treatment facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; and

(II) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or a moisture content greater than sixty-five percent.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) Each petition must be submitted to:

Department of Ecology
Hazardous Waste Land
Disposal Exemption
Mailstop PV-11
Olympia, WA 98504-8711

(e) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition and accompanying demonstration, such as a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality. Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements.

(f)(i) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice shall be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period shall be a minimum of forty-five days.

(ii) Upon the written request of any interested person, the department may, at its discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on its own motion to hold a conference.

(iii) After evaluating all public comments the department will make a final decision in accordance with RCW 34.04.060 or 34.04.080. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition.

(g) Prior to the department's decision, the applicant is required to comply with all restrictions on land disposal under WAC 173-303-140. The department should respond to a petition within ninety days.

(h) If an exemption is granted, the department may include specific conditions as deemed necessary by the department to protect public health and the environment.

(i) If granted, the exemption will apply to land disposal of the specific restricted waste at the individual disposal unit described in the petition and accompanying demonstration. The exemption will not apply to any other restricted waste at that disposal unit, nor will it apply to that specific restricted waste at any other disposal unit.

(j) If an exemption is granted, the department may withdraw the exemption on the following bases:

(i) If there is a threat to public health and the environment; or

(ii) If there is migration of dangerous waste constituents from the land disposal unit or site for as long as the waste remains dangerous; or

(iii) If the department finds reason to believe that the information submitted in a petition is inaccurate or has been falsified such that the petition should have been denied.

(k) The term of an exemption granted under this subsection will be established by the department at the time of issuance.

(l) Any exemption granted by the department does not relieve the petitioner of his responsibilities in the management of dangerous waste under chapter 173-303 WAC.

(m) The department may (but shall not be required to) grant a temporary exemption before making a final decision, whenever it finds that there is a substantial likelihood that an exemption will be finally granted. Temporary exemptions shall not be subject to the procedures of (f) of this subsection. Temporary exemptions shall not be a cause of delaying final decision making on the petition request.

[Statutory Authority: Chapter 70.105 RCW. 88-02-057 (Order DE 83-36), § 173-303-910, filed 1/5/88, effective 2/5/88; 86-12-057 (Order DE-85-10), § 173-303-910, filed 6/3/86; 84-14-031 (Order DE 84-22), § 173-303-910, filed 6/27/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-910, filed 2/10/82.]

WAC 173-303-950 Violations and enforcement. Any violation of this chapter may be subject to the enforcement and penalty sanctions of chapter 70.105 RCW. Such violations include, but are not limited to:

(1) Offering or transporting dangerous waste to a facility which does not have a permit;

(2) Transferring, treating, storing, or disposing of dangerous waste without a permit; or

(3) Falsely representing information in any application, label, manifest, record, report, permit, petition, or other document filed, maintained or used for the purpose of compliance with this chapter.

[Statutory Authority: Chapter 70.105 RCW. 84-09-088 (Order DE 83-36), § 173-303-950, filed 4/18/84.]

WAC 173-303-960 Special powers and authorities of the department. (1) Applicability. This section applies to departmental powers and authorities when taking actions against activities that may present an imminent and substantial endangerment to health or the environment.

(2) Notwithstanding any other provision of this chapter, upon receipt of evidence or with due cause the department believes that the handling, storage, treatment, transportation, recycling, or disposal of any dangerous waste or solid waste may present an imminent and substantial endangerment to health or the environment, the department may:

(a) Authorize an agency inspector to enter at reasonable times establishments regulated under this chapter for the purposes of inspection, monitoring, and sampling; and

(b) Direct the attorney general to bring suit on behalf of the state to immediately restrain any person contributing to such handling, storage, treatment, transportation, recycling, or disposal to immediately stop such handling, storage, treatment, transportation, recycling, or disposal or to take such other action as may be necessary.

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-960, filed 6/3/86.]

WAC 173-303-9901 Flow chart for designating dangerous wastes. (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-9901, filed 6/26/87; 84-09-088 (Order DE 83-36), § 173-303-9901, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-9901, filed 2/10/82.]

WAC 173-303-9902 Narrative for designating dangerous wastes. (Reserved.)

[Statutory Authority: Chapter 70.105 RCW. 86-12-057 (Order DE-85-10), § 173-303-9902, filed 6/3/86. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260. 82-05-023 (Order DE 81-33), § 173-303-9902, filed 2/10/82.]

WAC 173-303-9903 Discarded chemical products list.

DISCARDED CHEMICAL PRODUCTS LIST			
Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
ACUTELY DANGEROUS CHEMICAL PRODUCTS			
P023	Acetaldehyde, chloro-	EHW	B H
U001	Acetaldehyde	EHW	C
U034	Acetaldehyde, trichloro-	EHW	H
P002	Acetamide, N-(aminothioxomethyl)-	EHW	B
P057	Acetamide, 2-fluoro-	EHW	B H
P058	Acetic acid, fluoro-, sodium salt	EHW	A H
U144	Acetic acid, lead salt	EHW	D EP
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester	EHW	B
U003	Acetonitrile	EHW	C I
P001	3-(alpha-Acetyl-benzyl)-4-hydroxycoumarin and salts	EHW	A
P002	1-Acetyl-2-thiourea	EHW	B
U006	Acetyl chloride	EHW	C H O R
P003	Acrolein	EHW	X I
U007	Acrylamide	EHW	C
U008	Acrylic acid	EHW	C O I
U009	Acrylonitrile	EHW	C + I
P070	Aldicarb	EHW	B
P004	Aldrin	EHW	X H
P005	Allyl alcohol	EHW	B I
P006	Aluminum phosphide (R,T)	EHW	B R
P007	5-(Aminomethyl)-3-isoxazolol	EHW	B
P008	4-alpha-Aminopyridine	EHW	B
P009	Ammonium picrate	EHW	R
P119	Ammonium vanadate	EHW	B
U012	Aniline	EHW	C I
P010	Arsenic acid	EHW	B
P012	Arsenic (III) oxide	EHW	B +
P011	Arsenic (V) oxide	EHW	B
P011	Arsenic pentoxide	EHW	B
P012	Arsenic trioxide	EHW	B +
P038	Arsine, diethyl-	EHW	B
U015	Azaserine	EHW	C +
P054	Aziridine	EHW	B +
U010	Azirino(2',3':3,4)pyrrolo(1,2a)indole-4,7-dione, 6-amino-8-((aminocarbonyloxy)methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-	EHW	B +
P013	Barium cyanide	EHW	A
U157	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-	EHW	H P
U017	Benzal chloride	EHW	D H
U018	Benz[a]anthracene	EHW	P +
U018	1,2-Benzanthracene	EHW	P +
U094	1,2-Benzanthracene, 7,12-dimethyl-	EHW	C P
U012	Benzenamine	EHW	C I
P024	Benzenamine, 4-chloro-	EHW	C H
U049	Benzenamine, 4-chloro-2-methyl-	EHW	H
U093	Benzenamine, N, N-dimethyl-4-(phenylazo)-	EHW	C +
U158	Benzenamine, 4,4-methylenebis(2-chloro-	EHW	H +
P077	Benzenamine, 4-nitro-	EHW	D ?
P028	Benzene, (chloromethyl)-	EHW	B H +
U019	Benzene	EHW	C + I
U038	Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester	EHW	H
U030	Benzene, 1-bromo-4-phenoxy-	EHW	H
U037	Benzene, chloro-	EHW	B H I
U190	1,2-Benzenedicarboxylic acid anhydride	EHW	C
U070	Benzene, 1,2-dichloro-	EHW	B H
U071	Benzene, 1,3-dichloro-	EHW	B H
U072	Benzene, 1,4-dichloro-	EHW	B H
U017	Benzene, (dichloromethyl)-	EHW	D H
U223	Benzene, 1,3-diisocyanatomethyl-	EHW	B R
U239	Benzene, dimethyl-	EHW	C I
U201	1,3-Benzenediol	EHW	C
U127	Benzene, hexachloro-	EHW	H
U056	Benzene, hexahydro-	EHW	C I
U188	Benzene, hydroxy-	EHW	C
U220	Benzene, methyl-	EHW	C I
U105	Benzene, 1-methyl-2,4-dinitro	EHW	C

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U106	Benzene, 1-methyl-2,6-dinitro-	EHW	C
U055	Benzene, (1,methylethyl)-	EHW	C I
U169	Benzene, nitro-	EHW	C I
U183	Benzene, pentachloro	EHW	H
U185	Benzene, pentachloronitro-	EHW	D H +
U020	Benzenesulfonic acid chloride	EHW	D H O R
U020	Benzenesulfonyl chloride	EHW	D H O R
U207	Benzene, 1,2,4,5-tetrachloro-	EHW	D H
U023	Benzene, (trichloromethyl)-	EHW	H O R
P042	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-	EHW	B
P014	Benzenethiol	EHW	A
U021	Benizidine	EHW	B +
U022	Benzo[a]pyrene	EHW	P +
U022	3,4-Benzopyrene	EHW	P +
U197	p-Benzoquinone	EHW	C
U023	Benzotrithloride	EHW	H O R
U050	1,2-Benzphenanthrene	EHW	P +
P028	Benzyl chloride	EHW	B H +
P015	Beryllium dust	EHW	C +
U085	2,2'-Bioxirane	EHW	B I
U021	'1,1'-Biphenyl)-4,4'-diamine	EHW	B +
U073	(1,1'-Biphenyl-4,4'-diamine, 3,3'-dichloro-	EHW	H +
U095	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-	EHW	C +
U024	Bis(2-chloroethoxy) methane	EHW	C H
U027	Bis(2-chloroisopropyl) ether	EHW	C H O
P016	Bis(chloromethyl) ether	EHW	B H +
U246	Bromine cyanide	EHW	C H
P017	Bromoacetone	EHW	C H
U225	Bromoforn	EHW	H
U030	4-Bromophenyl phenyl ether	EHW	H
P018	Brucine	EHW	A
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	EHW	C H
U035	Butanoic acid, 4-[bis(2-chloroethyl)amino] benzene-	EHW	H +
U160	2-Butanone peroxide	EHW	B R
U053	2-Butenal	EHW	B I
U074	2-Butene, 1,4-dichloro-	EHW	C H I
U032	Calcium chromate	EHW	C + EP
P021	Calcium cyanide	EHW	B
P123	Camphene, octachloro-	EHW	X H
U178	Carbamic acid, methylnitroso-, ethyl ester	EHW	C +
U176	Carbamide, N-ethyl-N-nitroso-	EHW	C +
U177	Carbamide, N-methyl-N-nitroso-	EHW	C +
U219	Carbamide, thio-	EHW	C +
P103	Carbamimidoseleonic acid	EHW	B
U097	Carbamoyl chloride, dimethyl-	EHW	D H +
P022	Carbon bisulfide	EHW	D I ?
P022	Carbon disulfide	EHW	D I ?
U156	Carbonochloridic acid, methyl ester	EHW	B H I
U033	Carbon oxyfluoride	EHW	B H R
U211	Carbon tetrachloride	EHW	C H +
P095	Carbonyl chloride	EHW	B H
U033	Carbonyl fluoride	EHW	B H R
U035	Chlorambucil	EHW	H +
U036	Chlordane, technical	EHW	X H
P033	Chlorine cyanide	EHW	A H
U026	Chlornaphazine	EHW	H +
P023	Chloroacetaldehyde	EHW	B H
P024	p-Chloroaniline	EHW	C H
U037	Chlorobenzene	EHW	B H I
U039	4-Chloro-m-cresol	EHW	H
U041	1-Chloro-2,3-epoxypropane	EHW	C H + I
U042	2-Chloroethyl vinyl ether	EHW	C H
U044	Chloroform	EHW	C H +
U046	Chloromethyl methyl ether	EHW	D H + I
U047	beta-Chloronaphthalene	EHW	D H
U048	o-Chlorophenol	EHW	D H
P026	1-(o-Chlorophenyl)thiourea	EHW	A H
P027	3-Chloropropionitrile	EHW	B H
U049	4-Chloro-o-toluidine, hydrochloride	EHW	H
U032	Chromic acid, calcium salt	EHW	C + EP
U050	Chrysene	EHW	P +
P029	Copper cyanides	EHW	B
U052	Cresols	EHW	B
U052	Cresylic acid	EHW	B
U053	Crotonaldehyde	EHW	B I
U055	Cummene	EHW	C I
P030	Cyanides (soluble cyanide salts), not elsewhere specified	EHW	A

Dangerous Waste Regulations

173-303-9903

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
P031	Cyanogen	EHW	B I	U001	Ethanal	EHW	C
U246	Cyanogen bromide	EHW	C H	U174	Ethanamine, N-ethyl-N-nitroso-	EHW	C +
P033	Cyanogen chloride	EHW	A H	P046	Ethanamine, 1,1-dimethyl-2-phenyl-	EHW	C
U197	1,4-Cyclohexadienedione	EHW	C	U067	Ethane, 1,2-dibromo-	EHW	C H +
U056	Cyclohexane	EHW	C I	U076	Ethane, 1,1-dichloro-	EHW	D H
U057	Cyclohexanone	EHW	C I	U077	Ethane, 1,2-dichloro-	EHW	D H
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	EHW	X H	U114	1,2-Ethanediybiscarbamodithioic acid	EHW	B
U058	Cyclophosphamide	EHW	C H + I	U131	Ethane, 1,1,1,2,2,2-hexachloro-	EHW	H
U240	2,4-D, salts and esters	EHW	B H	U024	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	EHW	C H
U060	DDD	EHW	C H +	U247	Ethane, 1,1,1-trichloro-2,2-bis(p-methoxy phenyl)	EHW	D H
U061	DDT	EHW	X H +	U003	Ethanenitrile	EHW	C
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one	EHW	X H	U025	Ethane, 1,1'-oxybis[2-chloro-	EHW	C H
U062	Diallate	EHW	C H +	U184	Ethane, pentachloro-	EHW	A H
U133	Diamine	EHW	B + R	U208	Ethane, 1,1,1,2-tetrachloro-	EHW	H
U063	Dibenz[a,h]anthracene	EHW	A P +	U209	Ethane, 1,1,2,2-Tetrachloro-	EHW	H
U063	1,2,5,6-Dibenzanthracene	EHW	P + A	U227	Ethane, 1,1,2-trichloro-	EHW	C H
U064	1,2,7,8-Dibenzopyrene	EHW	P +	P084	Ethenamine, N-methyl-N-nitroso	EHW	B +
U064	Dibenz[a,i]pyrene	EHW	P +	U043	Ethene, chloro-	EHW	D H +
U066	1,2-Dibromo-3-chloropropane	EHW	C H +	U042	Ethane, 2-chloroethoxy-	EHW	C H
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	EHW	C H +	U078	Ethene, 1,1-dichloro-	EHW	C H +
U070	o-Dichlorobenzene	EHW	B H	U079	Ethene, trans-1,2-dichloro-	EHW	D H
U071	m-Dichlorobenzene	EHW	B H	U210	Ethene, 1,1,2,2-tetrachloro-	EHW	C H
U072	p-Dichlorobenzene	EHW	B H	U006	Ethanoyl chloride	EHW	C H O R
U073	3,3'-Dichlorobenzidine	EHW	H +	P101	Ethyl cyanide	EHW	B
U074	1,4-Dichloro-2-butene	EHW	C H I	U038	Ethyl 4,4'-dichlorobenzilate	EHW	D H
U075	Dichlorodifluoromethane	EHW	H	U114	Ethylenebis(dithiocarbamic acid), salts and esters	EHW	B
U060	Dichloro diphenyl dichloroethane	EHW	C H +	U067	Ethylene dibromide	EHW	C H
U061	Dichloro diphenyl trichloroethane	EHW	X H +	U077	Ethylene dichloride	EHW	D H
U078	1,1-Dichloroethylene	EHW	C H +	U115	Ethylene oxide	EHW	C I
U079	1,2-Dichloroethylene	EHW	D H	P054	Ethylenimine	EHW	B +
U025	Dichloroethyl ether	EHW	C H	U076	Ethylidene dichloride	EHW	D H
U081	2,4-Dichlorophenol	EHW	D H	P097	Famphur	EHW	A
U082	2,6-Dichlorophenol	EHW	D H	P056	Fluorine	EHW	B
U240	2,4-Dichlorophenoxyacetic acid, salts and esters	EHW	B H	P057	Fluoroacetamide	EHW	B H
P036	Dichlorophenylarsine	EHW	B H	P058	Fluoroacetic acid, sodium salt	EHW	A H
U083	1,2-Dichloropropane	EHW	C H I	U122	Formaldehyde	EHW	C
U084	1,3-Dichloropropane	EHW	C H	P065	Fulminic acid, mercury (II) salt	EHW	R ?
P037	Dieldrin	EHW	X H +	U125	2-Furancarboxaldehyde	EHW	C I
U085	1,2,3,4-Diepoxybutane	EHW	B I	U147	2,5-Furandione	EHW	C
P038	Diethylarsine	EHW	B	U125	Furfural	EHW	C I
P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	EHW	A	U126	Glycidylaldehyde	EHW	C +
U087	O,O-Diethyl-S-methyl-dithiophosphate	EHW	B	U163	Guanidine, N-nitroso-N-methyl-N'nitro-	EHW	C +
P041	Diethyl-p-nitrophenyl phosphate	EHW	A	P059	Heptachlor	EHW	X H +
P040	O,O-Diethyl O-pyrazenyl phosphorothioate	EHW	A	U127	Hexachlorobenzene	EHW	H
P043	Diisopropyl fluorophosphate	EHW	B H	U128	Hexachlorobutadiene	EHW	C H
P044	Dimethoate	EHW	A	U129	Hexachlorocyclohexane (gamma isomer)	EHW	H +
U092	Dimethylamine	EHW	C I	U130	Hexachlorocyclopentadiene	EHW	X H
U093	Dimethylaminoazobenzene	EHW	C +	P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, endo-1,4,5,8-dimethanophthalene	EHW	X H
U094	7,12-Dimethylbenz[a]anthracene	EHW	C P	P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, exo-1,4,5,8-dimethanonaphthalene	EHW	X H +
U095	3,3'-Dimethylbenzidine	EHW	C +	U131	Hexachloroethane	EHW	H
U096	alpha, alpha-Dimethylbenzylhydroperoxide	EHW	C R	P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, endo-dimethanonaphthalene	EHW	B H
U097	Dimethylcarbamoyl chloride	EHW	D H +	P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8-endo, exodimethanonaphthalene	EHW	B H
U099	1,2-Dimethylhydrazine	EHW	C + I	P060	Hexachlorohexahydro-endo, endo-dimethanonaphthalene	EHW	B H
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime	EHW	B	U132	Hexachlorophene	EHW	C H
P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	EHW	A	U243	Hexachloropropene	EHW	H
P082	Dimethylnitrosamine	EHW	B +	P062	Hexaethyl tetraphosphate	EHW	B
P046	alpha, alpha-Dimethylphenethylamine	EHW	C	U133	Hydrazine	EHW	B + R
U103	Dimethyl sulfate	EHW	C O +	P116	Hydrazinecarbothioamide	EHW	B
P047	4,6-Dinitro-o-cresol and salts	EHW	B	U099	Hydrazine, 1,2-dimethyl-	EHW	C + I
P034	4,6-Dinitro-o-cyclohexylphenol	EHW	C	U109	Hydrazine, 1,2-diphenyl-	EHW	C
P048	2,4-Dinitrophenol	EHW	B	P068	Hydrazine, methyl-	EHW	A I
U105	2,4-Dinitrotoluene	EHW	C	P063	Hydrocyanic acid	EHW	A
U106	2,6-Dinitrotoluene	EHW	C	P063	Hydrogen cyanide	EHW	A
P020	Dinoseb	EHW	B	P096	Hydrogen phosphide	EHW	B I
U109	1,2-Diphenylhydrazine	EHW	C	U135	Hydrogen sulfide	EHW	B I
P035	Diphosphoramidate, octamethyl	EHW	?	U096	Hydroperoxide, 1-methyl-1-phenylethyl-	EHW	C R
U110	Dipropylamine	EHW	C I	U245	Indomethacin	EHW	B H
U111	Di-n-propylnitrosamine	EHW	C +	P064	Isocyanic acid, methyl ester	EHW	I ?
P039	Disulfoton	EHW	A	P007	3(2H)-Isoxazolone, 5-(aminomethyl)-	EHW	B
P049	2,4-Dithiobiuret	EHW	A	U142	Kepone	EHW	X H
P109	Dithiopyrophosphoric acid, tetraethyl ester	EHW	A	U143	Lasiocarpine	EHW	C +
P050	Endosulfan	EHW	X H				
P088	Endothall	EHW	B				
P051	Endrin	EHW	X H				
P042	Epinephrine	EHW	B				

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U144	Lead acetate	EHW	D EP	U179	N-Nitrosopiperidine	EHW	C +
U129	Lindane	EHW	H +	U111	N-Nitroso-n-propylamine	EHW	C +
U147	Maleic anhydride	EHW	C	P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite	EHW	X H
U149	Malononitrile	EHW	C	P085	Octamethylpyrophosphoramide	EHW	A
U151	Mercury	EHW	EP	P087	Osmium oxide	EHW	B
P092	Mercury, (acetato-O)phenyl-	EHW	B	P087	Osmium tetroxide	EHW	B
P065	Mercury fulminate	EHW	R ?	P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	EHW	B
U152	Methacrylonitrile	EHW	B I	U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro ethyl)amino]tetrahydro-, 2-oxide	EHW	CH I +
U092	Methanamine, N-methyl-	EHW	C I	U115	Oxirane	EWH	C I
P016	Methane, oxybis(chloro)-	EHW	B H +	U041	Oxirane, 2-(chloromethyl)-	EHW	CH + I
P112	Methane, tetranitro-	EHW	A R	P089	Parathion	EHW	X
U029	Methane, bromo-	EHW	H	U183	Pentachlorobenzene	EHW	H
U045	Methane, chloro-	EHW	H I	U184	Pentachloroethane	EHW	A H
U046	Methane, chloromethoxy-	EHW	D H + I	U185	Pentachloronitrobenzene	EHW	D H +
U068	Methane, dibromo-	EHW	C H +	See F027	Pentachlorophenol	EHW	A H
U080	Methane, dichloro-	EHW	C H	U188	Phenol	EHW	C
U075	Methane, dichlorodifluoro-	EHW	H	P034	Phenol, 2-cyclohexyl-4,6-dinitro-	EHW	C
U138	Methane, iodo-	EHW	H +	P048	Phenol, 2,4-dinitro-	EHW	B
U211	Methane, tetrachloro-	EHW	C H +	P047	Phenol, 2-methyl-4,6-dinitro-, and salts	EHW	B
P118	Methanethiol, trichloro-	EHW	H	P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	EHW	B
U153	Methanethiol	EHW	B I	P009	Phenol, 2,4,6-trinitro-, ammonium salt	EHW	R
U225	Methane, tribromo	EHW	H	U048	Phenol, 2-chloro-	EHW	D H
U121	Methane, trichlorofluoro-	EHW	H	U039	Phenol, 4-chloro-3-methyl-	EHW	H
U044	Methane, trichloro-	EHW	C H +	U081	Phenol, 2,4-dichloro-	EHW	D H
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	EHW	X H +	U082	Phenol, 2,6-dichloro-	EHW	D H
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-	EHW	X H	U170	Phenol, 4-nitro-	EHW	C
P066	Methomyl	EHW	B	See F027	Phenol, pentachloro-	EHW	A H
P067	2-Methylaziridine	EHW	B + I	See F027	Phenol, 2,3,4,6-tetrachloro-	EHW	CH
P068	Methyl hydrazine	EHW	A I	See F027	Phenol, 2,4,5-trichloro-	EHW	A H
P064	Methyl isocyanate	EHW	I ?	See F027	Phenol, 2,4,6-trichloro-	EHW	A H
P069	2-Methylactonitrile	EHW	A	P036	Phenyl dichloroarsine	EHW	B H
P071	Methyl parathion	EHW	A	P092	Phenylmercuric acetate	EHW	B
U029	Methyl bromide	EHW	H	P093	N-Phenylthiourea	EHW	A
U045	Methyl chloride	EHW	H I	P094	Phorate	EHW	X
U156	Methyl chlorocarbonate	EHW	B H I	P095	Phosgene	EHW	B H
U226	Methylchloroform	EHW	C H	P096	Phosphine	EHW	B I
U157	3-Methylcholanthrene	EHW	H P	P041	Phosphoric acid, diethyl p-nitrophenyl ester	EHW	A
U158	4,4'-Methylenebis(2-chloroaniline)	EHW	H +	P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	EHW	A
U132	2,2'-Methylenebis(3,4,6-trichlorophenol)	EHW	C H	P043	Phosphorofluoridic acid, bis(1-methyl-ethyl)ester	EHW	B H
U068	Methylene bromide	EHW	C H +	P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester	EHW	X
U080	Methylene chloride	EHW	C H	P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester	EHW	A
U122	Methylene oxide	EHW	C	P089	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester	EHW	X
U160	Methyl ethyl ketone peroxide	EHW	B R	P040	Phosphorothioic acid, O,O-diethyl O-pyra-zinyl ester	EHW	A
U138	Methyl iodide	EHW	H +	U189	Phosphorus sulfide	EHW	B I R
U163	N-Methyl-N'-nitro-N-nitrosoguanidine	EHW	C + R	U190	Phthalic anhydride	EHW	C
U010	Mitomycin C	EHW	B +	U191	2-Picoline	EHW	C
U165	Naphthalene	EHW	B	P110	Plumbane, tetraethyl-	EHW	A
U047	Naphthalene, 2-chloro-	EHW	D H	P098	Potassium cyanide	EHW	A
U166	1,4-Naphthalenedione	EHW	C	P099	Potassium silver cyanide	EHW	A
U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'-diyl)]-bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt	EHW	H +	P070	Propanal, 2-methyl-2(methylthio)-O-[(methylamino)carbonyl]oxime	EHW	B
U166	1,4-Naphthoquinone	EHW	C	U194	1-Propanamine	EHW	C I
U167	1-Naphthylamine	EHW	B +	U110	1-Propanamine, N-propyl-	EHW	C I
U168	2-Naphthylamine	EHW	B +	U066	Propane, 1,2-dibromo-3-chloro-	EHW	CH +
U167	alpha-Naphthylamine	EHW	B +	U149	Propanedinitrile	EHW	C
U168	beta-Naphthylamine	EHW	B +	P101	Propanenitrile	EHW	B
U026	2-Naphthylamine, N,N-bis(2-chloro-ethyl)-	EHW	H +	P027	Propanenitrile, 3-chloro-	EHW	B H
P072	alpha-Naphthylthiourea	EHW	B	P079	Propanenitrile, 2-hydroxy-2-methyl-	EHW	A
P073	Nickel carbonyl	EHW	B	U171	Propane, 2-nitro-	EHW	C I
P074	Nickel cyanide	EHW	D R ?	U027	Propane, 2,2'-oxybis[2-chloro-	EHW	CH O
P074	Nickel (II) cyanide	EHW	D R ?	P081	1,2,3-Propanetriol, trinitrate-	EHW	R ?
P073	Nickel tetracarbonyl	EHW	B	U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)	EHW	D H
P075	Nicotine and salts	EHW	B	U126	1-Propanol, 2,3-epoxy-	EHW	C +
P076	Nitric oxide	EHW	B	P017	2-Propanone, 1-bromo-	EHW	CH
P077	p-Nitroaniline	EHW	D ?	P102	Propargyl alcohol	EHW	X
U169	Nitrobenzene	EHW	C I	P003	2-Propenal	EHW	X
P078	Nitrogen dioxide	EHW	A	U007	2-Propenamide	EHW	C
P076	Nitrogen (II) oxide	EHW	B	U084	Propene, 1,3-dichloro-	EHW	CH
P078	Nitrogen (IV) oxide	EHW	A				
P081	Nitroglycerine	EHW	R ?				
U170	p-Nitrophenol	EHW	C				
U171	2-Nitropropane	EHW	C I				
U174	N-Nitrosodiethylamine	EHW	C +				
P082	N-Nitrosodimethylamine	EHW	B +				
U176	N-Nitroso-N-ethylurea	EHW	C +				
U177	N-Nitroso-N-methylurea	EHW	C +				
U178	N-Nitroso-N-methylurethane	EHW	C +				
P084	N-Nitrosomethylvinylamine	EHW	B +				

Dangerous Waste Regulations

173-303-9903

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*	Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U243	1-Propene, 1,1,2,3,3,3-hexachloro-	EHW	H	P001	Warfarin	EHW	A
U009	2-Propenenitrile	EHW	C + I	U239	Xylene	EHW	C I
U152	2-Propenenitrile, 2-methyl-	EHW	B I	P121	Zinc cyanide	EHW	C
U008	2-Propenoic acid	EHW	C O I	P122	Zinc phosphide	EHW	B R
P005	2-Propen-1-ol	EHW	B I	MODERATELY DANGEROUS CHEMICAL PRODUCTS			
See F027	Propionic acid, 2-(2,4,5-trichlorophenoxy)-	EHW	B H	U187	Acetamide, N-(4-ethoxyphenyl)-	DW	D +
U194	n-Propylamine	EHW	C I	U005	Acetamide, N-9H-fluorene-2-yl-	DW	?
U083	Propylene dichloride	EHW	C H I	U112	Acetic acid, ethyl ester	DW	D I
P067	1,2-Propylenimine	EHW	B + I	U214	Acetic acid, thallium(I) salt	DW	?
P102	2-Propyn-1-ol	EHW	X	U002	Acetone	DW	D I
P008	4-Pyridinamine	EHW	B	U004	Acetophenone	DW	D
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	EHW	B	U005	2-Acetylaminofluorene	DW	?
U196	Pyridine	EHW	C I	U150	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-, L-	DW	+
U179	Pyridine, hexahydro-N-nitroso-	EHW	C +	U328	2-Amino-1-methylbenzene	DW	D +
U191	Pyridine, 2-methyl-	EHW	C	U353	4-Amino-1-methylbenzene	DW	D
P111	Pyrophosphoric acid, tetraethyl ester	EHW	A	U011	Amitrole	DW	D +
U201	Resorcinol	EHW	C	U014	Auramine	DW	+
P103	Selenourea	EHW	B	U016	Benz[c]acridine	DW	+
U015	L-Serine, diazoacetate (ester)	EHW	C +	U016	3,4-Benzacridine	DW	+
P104	Silver cyanide	EHW	C	U014	Benzenamine, 4,4-carbonimidoylbis(N,N-dimethyl-	DW	+
See F027	Silvex	EHW	B H	U222	Benzenamine, 2-methyl-, hydrochloride	DW	D +
P105	Sodium azide	EHW	A	U181	Benzenamine, 2-methyl-5-nitro	DW	D
P106	Sodium cyanide	EHW	A	U028	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester	DW	?
P107	Strontium sulfide	EHW	R	U069	1,2-Benzenedicarboxylic acid, dibutyl ester	DW	D
P108	Strychnidin-10-one, and salts	EHW	B	U088	1,2-Benzenedicarboxylic acid, diethyl ester	DW	?
P018	Strychnidin-10-one, 2,3-dimethoxy-	EHW	A	U102	1,2-Benzenedicarboxylic acid, dimethyl ester	DW	?
P108	Strychnine and salts	EHW	B	U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester	DW	?
U135	Sulfur hydride	EHW	B I	U203	Benzene, 1,2-methylenedioxy-4-allyl-	DW	D +
U103	Sulfuric acid, dimethyl ester	EHW	C O +	U141	Benzene, 1,2-methylenedioxy-4-propenyl-	DW	D +
P115	Sulfuric acid, thallium (I) salt	EHW	B	U090	Benzene, 1,2-methylenedioxy-4-propyl-	DW	D +
U189	Sulfur phosphide	EHW	B I R	U234	Benzene, 1,3,5-trinitro-	DW	D R
See F027	2,4,5-T	EHW	B H +	U202	1,2-Benzisothiazilin-3-one, 1,1-dioxide, and salts	DW	+
See F027	1,2,4,5-Tetrachlorobenzene	EHW	D H	U120	Benzo[f,j,k]fluorene	DW	D
U208	1,1,1,2-Tetrachloroethane	EHW	H	U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-	DW	D +
U209	1,1,2,2-Tetrachloroethane	EHW	H	U244	Bis(dimethylthiocarbomoyl) disulfide	DW	D
U210	Tetrachloroethylene	EHW	C H +	U028	Bis(2-ethoxythyl) phthalate	DW	?
U212	2,3,4,6-Tetrachlorophenol	EHW	C H	U172	1-Butanamine, N-butyl-N-nitroso-	DW	D +
P109	Tetraethylthiopyrophosphate	EHW	A	U031	1-Butanol	DW	D I
P110	Tetraethyl lead	EHW	A	U159	2-Butanone	DW	D I
P111	Tetraethylpyrophosphate	EHW	A	U031	n-Butyl alcohol	DW	D I
P112	Tetranitromethane	EHW	A R	U136	Cacodylic acid	DW	D
P062	Tetraphosphoric acid, hexaethyl ester	EHW	B	U238	Carbamic acid, ethyl ester	DW	+
P113	Thallic oxide	EHW	B	U215	Carbonic acid, dithallium(I) salt	DW	?
P113	Thallium (III) oxide	EHW	B	U051	Creosote	DW	D
P114	Thallium (I) selenide	EHW	C	U059	Daunomycin	DW	+
P115	Thallium (I) sulfate	EHW	B	U221	Diaminotoluene	DW	?
P045	Thiofanox	EHW	B	U069	Dibutyl phthalate	DW	D
P049	Thioimidodicarbonic diamide	EHW	A	U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide	DW	?
U153	Thiomethanol	EHW	B I	U108	1,4-Diethylene dioxide	DW	D +
P014	Thiophenol	EHW	A	U086	N,N-Diethylhydrazine	DW	+
P116	Thiosemicarbazide	EHW	B H +	U088	Diethyl phthalate	DW	?
U219	Thiourea	EHW	C +	U089	Diethylstilbestrol	DW	+
P026	Thiourea, (2-chlorophenyl)-	EHW	A H	U148	1,2-Dihydro-3-,6-pyridinedione	DW	D
P072	Thiourea, 1-naphthalenyl-	EHW	B	U090	Dihydrosafrole	DW	D +
P093	Thiourea, phenyl-	EHW	A	U091	3,3'-Dimethoxybenzidine	DW	D +
U220	Toluene	EHW	C I	U098	1,1-Dimethylhydrazine	DW	D +
U223	Toluene diisocyanate	EHW	B R	U101	2,4-Dimethylphenol	DW	D
P123	Toxaphene	EHW	X H	U102	Dimethyl phthalate	DW	?
U226	1,1,1-Trichloroethane	EHW	C H	U107	Di-n-octyl phthalate	DW	?
U227	1,1,2-Trichloroethane	EHW	C H	U108	1,4-Dioxane	DW	D +
U228	Trichloroethene	EHW	C H +	U117	Ethane, 1,1'-oxybis-	DW	D I
U228	Trichloroethylene	EHW	C H +	U218	Ethanethioamide	DW	+
P118	Trichloromethanethiol	EHW	H	U173	Ethanol, 2,2-(nitrosoimino)bis-	DW	+
U121	Trichloromonofluoromethane	EHW	H	U004	Ethanone, 1-phenyl-	DW	D
See F027	2,4,5-Trichlorophenol	EHW	A H	U112	Ethyl acetate	DW	D I
See F027	2,4,6-Trichlorophenol	EHW	A H	U113	Ethyl acrylate	DW	D I
U232	2,4,5-Trichlorophenoxy-acetic acid, salts and esters	EHW	B H +	U238	Ethyl carbamate (urethan)	DW	+
U233	2,4,5-Trichlorophenoxy-propionic acid, salts and esters	EHW	B H +	U116	Ethylene thiourea	DW	D +
U235	Tris(2,3-dibromopropyl) phosphite	EHW	D H	U117	Ethyl ether	DW	D I
U236	Trypan blue	EHW	H +				
U237	Uracil, 5[bis(2-chloroethyl)amino]-	EHW	B H +				
U237	Uracil mustard	EHW	B H +				
P119	Vanadic acid, ammonium salt	EHW	B				
P120	Vanadium pentoxide	EHW	B				
P120	Vanadium (V) oxide	EHW	B				
U043	Vinyl chloride	EHW	D H +				

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U118	Ethyl methacrylate	DW	I
U119	Ethyl methanesulfonate	DW	+
U139	Ferric dextran	DW	+
U120	Fluoranthene	DW	D
U123	Formic Acid	DW	D O
U124	Furan	DW	I
U213	Furan, tetrahydro-	DW	I
U124	Furfuran	DW	I
U206	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-	DW	+
U086	Hydraxine, 1,2-diethyl-	DW	+
U098	Hydrazine, 1,1-dimethyl-	DW	+ I
U134	Hydrofluoric acid	DW	D O
U134	Hydrogen fluoride	DW	D O
U136	Hydroxydimethylarsine oxide	DW	D
U116	2-Imidazolidinethione	DW	D +
U137	Indeno[1,2,3-cd]pyrene	DW	+
U139	Iron dextran	DW	+
U140	Isobutyl alcohol	DW	D I
U141	Isosafrole	DW	D +
U145	Lead phosphate	DW	+
U146	Lead subacetate	DW	+
U148	Maleic hydrazide	DW	D
U150	Melphalan	DW	+
U119	Methanesulfonic acid, ethyl ester	DW	+
U123	Methanoic acid	DW	D O
U154	Methanol	DW	D I
U155	Methapyrilene	DW	D
U154	Methyl alcohol	DW	D I
U186	1-Methylbutadiene	DW	D I
U159	Methyl ethyl ketone	DW	D I
U161	Methyl isobutyl ketone	DW	D I
U162	Methyl methacrylate	DW	D I
U161	4-Methyl-2-pentanone	DW	+
U164	Methylthiouracil	DW	+
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxyl]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-	DW	+
U172	N-Nitrosodi-n-butylamine	DW	D +
U173	N-Nitrosodiethanolamine	DW	+
U180	N-Nitrosopyrrolidine	DW	D +
U181	5-Nitro-o-toluidine	DW	D
U193	1,2-Oxathiolane, 2,2-dioxide	DW	+
U182	Paraldehyde	DW	D I
U186	1,3-Pentadiene	DW	D I
U187	Phenacetin	DW	D+
U101	Phenol, 2,4-dimethyl-	DW	D
U137	1,10-(1,2-Phenylene)pyrene	DW	+
U145	Phosphoric acid, lead salt	DW	+
U087	Phosphorodithioic acid, O,O-diethyl-, S-methyl ester	DW	?
U192	Pronamide	DW	?
U193	1,3-Propane sultone	DW	+
U140	1-Propanol, 2-methyl-	DW	D I
U002	2-Propanone	DW	D I
U113	2-Propenoic acid, ethyl ester	DW	D I
U118	2-Propenoic acid, 2-methyl-, ethyl ester	DW	I
U162	2-Propenoic acid, 2-methyl-, methyl ester	DW	D I
U155	Pyridine, 2-[(2dimethylamino) ethyl]-2-phenylamino	DW	+
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	DW	+
U180	Pyrrrole, tetrahydro-N-nitroso-	DW	D +
U200	Reserpine	DW	?
U202	Saccharin and salts	DW	+
U203	Safrole	DW	D +
U204	Seleniousacid	DW	O
U204	Selenium dioxide	DW	O
U205	Selenium disulfide	DW	R
U089	4,4'-Stilbene diol, alpha, alpha'-diethyl-	DW	+
U206	Streptozotocin	DW	+
U205	Sulfur selenide	DW	R
U213	Tetrahydrofuran	DW	I
U214	Thallium(1) acetate	DW	?
U215	Thallium(1) carbonate	DW	?
U216	Thallium(1) chloride	DW	?
U217	Thallium(1) nitrate	DW	?
U218	Thioacetamide	DW	+
U244	Thiran	DW	D
U221	Toluenediamine	DW	?

Dangerous Waste No.	Substance	WDOE Hazard Designation	Reason for Designation*
U328	o-Toluidine	DW	D +
U353	p-Toluidine	DW	D
U222	o-Toluidine hydrochloride	DW	D +
U011	1H-1,2,4-Triazol-3-amine	DW	D +
U234	sym-Trinitrobenzene	DW	D R
U182	1,3,5-Trioxane, 2,4,6-trimethyl-	DW	D I
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-,methyl ester	DW	?

* EHW = Extremely Hazardous Waste
 DW = Dangerous Waste
 X = Toxic, Category X
 A = Toxic, Category A
 B = Toxic, Category B
 C = Toxic, Category C
 D = Toxic, Category D
 ? = Toxic, Category not determined
 H = Persistent, Halogenated Hydrocarbon
 O = Corrosive
 P = Persistent, Polycyclic Aromatic Hydrocarbon
 + = IARC Animal or Human, Positive or Suspected Carcinogen
 I = Ignitable
 R = Reactive
 EP = Extraction Procedure Toxicity

[Statutory Authority: Chapter 70.105 RCW, 89-02-059 (Order 88-24), § 173-303-9903, filed 1/4/89; 86-12-057 (Order DE-85-10), § 173-303-9903, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-9903, filed 4/18/84. Statutory Authority: Chapter 70.105 RCW and RCW 70.95.260, 82-05-023 (Order DE 81-33), § 173-303-9903, filed 2/10/82.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 173-303-9904 Dangerous waste sources list.

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
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Nonspecific Sources

Generic:

- F001** The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)
- F002** The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents. (See footnote 1, below.)
- F003** The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.

Dangerous Waste No.	Sources
F004	The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; and the still bottoms from the recovery of these solvents.
F005	The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine; and the still bottoms from the recovery of these solvents.
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.
F007	Spent cyanide plating bath solutions from electroplating operations.
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process.
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 2, below.)

Dangerous Waste No.	Sources
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 2, below.)
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 2, below.)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 2, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 2, below.)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 2, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027.
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (See footnote 1, below.) (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
	catalysts, and wastes listed under specific sources, below.)		
Specific Sources			
Wood Preservation:			
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (See footnote 1, below.)	K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (See footnote 1, below.)
		K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (See footnote 1, below.)
		K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (See footnote 1, below.)
Inorganic Pigments:		K022	Distillation bottom tars from the production of phenol/acetone from cumene.
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	K023	Distillation light ends from the production of phthalic anhydride from naphthalene.
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.
K005	Wastewater treatment sludge from the production of chrome green pigments.	K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.
K007	Wastewater treatment sludge from the production of iron blue pigments.	K026	Stripping still tails from the production of methyl ethyl pyridines.
K008	Oven residue from the production of chrome oxide green pigments.	K027	Centrifuge and distillation residues from toluene diisocyanate production.
Organic Chemicals:		K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (See footnote 1, below.)
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (See footnote 1, below.)
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (See footnote 1, below.)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (See footnote 1, below.)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (See footnote 1, below.)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	K083	Distillation bottoms from aniline production.
K015	Still bottoms from the distillation of benzyl chloride. (See footnote 1, below.)	K103	Process residues from aniline extraction from the production of aniline.
K016	Heavy ends or distillation residues from the production of carbon tetrachloride. (See footnote 1, below.)	K104	Combined wastewater streams generated from nitrobenzene/aniline production.
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (See footnote 1, below.)	K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. (See footnote 1, below.)
K018	Heavy ends from the fractionation column in ethyl chloride production. (See footnote 1, below.)		

Dangerous Waste No.	Sources
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (See footnote 1, below.)
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene.
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (See footnote 1, below.)

Explosives:

K044	Wastewater treatment sludges from the manufacturing and processing of explosives.
K045	Spent carbon from the treatment of wastewater containing explosives.
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
K047	Pink/red water from TNT operations.

Inorganic Chemicals:

K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (See footnote 1, below.)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production.

Petroleum Refining:

K048	Dissolved air flotation (DAF) float from the petroleum refining industry.
K049	Slop oil emulsion solids from the petroleum refining industry.
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.

Dangerous Waste No.	Sources
K051	API separator sludge from the petroleum refining industry.
K052	Tank bottoms (leaded) from the petroleum refining industry.

Iron and Steel:

K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).

Pesticides:

K031	Byproduct salts generated in the production of MSMA and cacodylic acid.
K032	Wastewater treatment sludge from the production of chlordane. (See footnote 3, below.)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (See footnote 3, below.)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (See footnote 3, below.)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (See footnote 3, below.)
K035	Wastewater treatment sludges generated in the production of creosote.
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.
K037	Wastewater treatment sludges from the production of disulfoton.
K038	Wastewater from the washing and stripping of phorate production. (See footnote 3, below.)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (See footnote 3, below.)
K040	Wastewater treatment sludge from the production of phorate. (See footnote 3, below.)
K041	Wastewater treatment sludge from the production of toxaphene. (See footnote 3, below.)
K098	Untreated process wastewater from the production of toxaphene. (See footnote 3, below.)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (See footnote 1, below.)
K043	2,6-Dichlorophenol waste from the production of 2,4-D. (See footnote 1, below.)

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K099	Untreated wastewater from the production of 2,4-D. (See footnote 1, below.)		
K123	Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts.		
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.		
K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.		
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.		
Secondary Lead:			
K069	Emission control dust/sludge from secondary lead smelting.		
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.		
Veterinary Pharmaceuticals:			
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.		
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.		
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.		
Ink Formulation:			
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.		
Coking:			
K060	Ammonia still-lime sludge from coking operations.		
K087	Decanter tank tar sludge from coking operations.		
		Footnotes	
		1	These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.
		2	For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.
		3	These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste EHW.
			State Sources
		W001	The following wastes generated from the salvaging, rebuilding, or discarding of transformers or capacitors which contain polychlorinated biphenyls (PCB): Cooling and insulating fluids; cores, including core papers, from unrinsed transformers and capacitors; transformers and capacitors which will no longer be used for their intended use, except for those transformers or capacitors which have been rinsed; and, rinsate from the rinsing of transformers and capacitors. For the purposes of this listing, the rinsing of PCB containing items shall be conducted as follows: First, the item is drained of all free flowing liquid; second, the item is filled with solvent and allowed to stand for at least eighteen hours; last, the item is drained thoroughly and the solvent is collected. Solvents may include kerosene, xylene, toluene and other solvents in which PCB are readily soluble. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if his PCB waste is excluded from the requirements of chapter 173-303 WAC.)

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-9904, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-9904, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-9904, filed 6/3/86; 85-09-042 (Order DE-85-02), § 173-303-9904, filed 4/15/85; 84-09-088 (Order DE 83-36), § 173-303-9904,

filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-9904, filed 2/10/82.]

WAC 173-303-9905 Dangerous waste constituents list.

Acetic Acid, 2,4,5-trichlorophenoxy-, salts and esters (2,4,5-T, salts and esters)
 Acetonitrile [Ethanenitrile]
 Acetophenone (Ethanone, 1-phenyl)
 -(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
 2-Acetylaminofluorene (Acetamide, N-9H-fluoren-2-yl)-
 Acetyl chloride (Ethanoyl chloride)
 1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-
 Acrolein (2-Propenal)
 Acrylamide (2-Propenamide)
 Acrylonitrile (2-Propenenitrile)
 Aflatoxins
 Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,-hexahydro-endo,exo-1,4:5,8-Dimethanonaphthalene)
 Allyl alcohol (2-Propen-1-ol)
 Aluminum phosphide
 4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
 6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8[
 4-Aminopyridine(4-Pyridinamine)
 Arsenic and compounds, N.O.S.*
 Barium and compounds, N.O.S.*
 Barium cyanide
 Benz[c]acridine (3,4-Benzacridine)
 Benz[a]anthracene (1,2-Benzanthracene)
 Benzene (Cyclohexatriene)
 Benzenearsonic acid (Arsonic acid, phenyl-)
 Benzene, 2-amino-1-methyl (o-Toluidine)
 Benzene, 4-amino-1-methyl (p-Toluidine)
 Benzene, dichloromethyl- (Benzal chloride)
 Benzenethiol (Thiophenol)
 Benzidine ([1,1'-Biphenyl]-4,4'diamine)
 Benzo[b]fluoranthene (2,3-Benzofluoranthene)
 Benzo[j]fluoranthene (7,8-Benzofluoranthene)
 Benzo[a]pyrene (3,4-Benzopyrene)
 p Benzoquinone (1,4-Cyclohexadienedione)
 Benzotrichloride (Benzene, trichloromethyl-)
 Benzyl chloride (Benzene, (chloromethyl)-)
 Beryllium and compounds, N.O.S.*
 Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
 Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
 N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)

Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
 Bis(chloromethyl) ether (Methane, oxybis[chloro-])
 Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
 Bromoacetone (2-Propanone, 1-bromo-)
 Bromomethane (Methyl bromide)
 4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
 Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
 2-Butanone peroxide (Methyl ethyl ketone, peroxide)
 Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
 2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
 Cadmium and compounds, N.O.S.*
 Calcium chromate (Chromic acid, calcium salt)
 Calcium cyanide
 Carbamic Acid, ethyl ester
 Carbon disulfide (Carbon bisulfide)
 Carbon oxyfluoride (Carbonyl fluoride)
 Chloral (Acetaldehyde, trichloro-)
 Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
 Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
 Chlorinated benzenes, N.O.S.*
 Chlorinated ethane, N.O.S.*
 Chlorinated fluorocarbons, N.O.S.*
 Chlorinated naphthalene, N.O.S.*
 Chlorinated phenol, N.O.S.*
 Chloroacetaldehyde (Acetaldehyde, chloro-)
 Chloroalkyl ethers, N.O.S.*
 p-Chloroaniline (Benzenamine, 4-chloro-)
 Chlorobenzene (Benzene, chloro-)
 Chlorobenzilate (Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester)
 2-Chloro-1,3-butadiene
 p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
 2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
 Chloroform (Methane, trichloro-)
 Chloromethane (Methyl chloride)
 Chloromethyl methyl ether (Methane, chloromethoxy-)
 2-Chloronaphthalene (Naphthalene, beta-chloro-)
 2-Chlorophenol (Phenol, o-chloro-)
 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
 3-Chloropropene

- 3-Chloropropionitrile (Propanenitrile, 3-chloro-)
 Chromium and compounds, N.O.S.*
 Chrysene (1,2-Benzphenanthrene)
 Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
 Coal tars
 Copper cyanide
 Creosote (Creosote, wood)
 Cresols (Cresylic acid) (Phenol, methyl-)
 Crotonaldehyde (2-Butenal)
 Cyanides (soluble salts and complexes), N.O.S.*
 Cyanogen (Ethanedinitrile)
 Cyanogen bromide (Bromine cyanide)
 Cyanogen chloride (Chlorine cyanide)
 Cytasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
 Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
 Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
 DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
 DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
 DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
 Diallylate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
 Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
 Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
 Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
 Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
 Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
 Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
 1,2-Dibromoethane (Ethylene dibromide)
 Dibromomethane (Methylene bromide)
 Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
 o-Dichlorobenzene (Benzene, 1,2-dichloro-)
 m-Dichlorobenzene (Benzene, 1,3-dichloro-)
 p-Dichlorobenzene (Benzene, 1,4-dichloro-)
 Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
 Dichlorodifluoromethane (Methane, dichlorodifluoro-)
 1,1-Dichloroethane (Ethylidene dichloride)
 1,2-Dichloroethane (Ethylene dichloride)
 trans-1,2-Dichloroethene (1,2-Dichloroethylene)
 Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
 Dichloromethane (Methylene chloride)
 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
 2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
 Dichlorophenylarsine (Phenyl dichloroarsine)
 Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
 1,2-Dichloropropane (Propylene dichloride)
 Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
 Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
 1,3-Dichloropropene (1-Propene, 1,3-dichloro-)
 Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
 Diethylarsine (Arsine, diethyl-)
 N,N'-Diethylhydrazine (Hydrazine, 1,2-diethyl)
 O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
 O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
 Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
 O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
 Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
 Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
 Diisopropylfluorophosphate (DFP) (Phosphorofluoric acid, bis(1-methylethyl) ester)
 Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
 p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)

7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
 3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
 Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
 alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
 Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
 Dimethyl sulfate (Sulfuric acid, dimethyl ester)
 Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*)
 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
 Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
 1,4-Dioxane (1,4-Diethylene oxide)
 Diphenylamine (Benzenamine, N-Phenyl-)
 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
 Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
 Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
 2,4-Dithiobiuret (Thioimidodicarbonic diamide)
 Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
 Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
 Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
 Ethyl cyanide (propanenitrile)
 Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylobiscarbamodithioic acid, salts and esters)
 Ethyleneimine (Aziridine)
 Ethylene oxide (Oxirane)
 Ethylenethiourea (2-Imidazolidinethione)
 Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
 Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
 Fluoranthene (Benzo[j,k]fluorene)

Fluorine
 2-Fluoroacetamide (Acetamide, 2-fluoro-)
 Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
 Formaldehyde (Methylene, oxide)
 Formic acid (Methanoic acid)
 Glycidylaldehyde (1-Propanol-2,3-epoxy)
 Halomethane, N.O.S.*
 Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
 Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
 Hexachlorobenzene (Benzene, hexachloro-)
 Hexachlorobutadiene (1,3-Butadiene, hexachloro-)
 Hexachlorocyclohexane (all isomers) (Lindane and isomers)
 Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
 Hexachlorodibenzo-p-dioxins
 Hexachlorodibenzofurans
 Hexachloroethane (Ethane, hexachloro-)
 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
 Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
 Hexachloropropene (Propene, hexachloro-)
 Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
 Hydrazine (Diamine)
 Hydrocyanic acid (Hydrogen cyanide)
 Hydrofluoric acid (Hydrogen fluoride)
 Hydrogen sulfide (Sulfur hydride)
 Hydroxydimethylarsine oxide (Cacodylic acid)
 Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
 Iodomethane (Methyl iodide)
 Iron Dextran (Ferric dextran)
 Isocyanic acid, methyl ester (Methyl isocyanate)
 Isobutyl alcohol (1-Propanol, 2-methyl-)
 Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
 Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalene-2-one)
 Lasiocarpine (2-Butenoic acid, 2-methyl-,7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
 Lead and compounds, N.O.S.*
 Lead acetate (Acetic acid, lead salt)
 Lead phosphate (Phosphoric acid, lead salt)

- Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
- Maleic anhydride (2,5-Furandione)
- Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
- Malononitrile (Propanedinitrile)
- Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
- Mercury Fulminate (Fulminic acid, mercury salt)
- Mercury and compounds, N.O.S.*
- Methacrylonitrile (2-Propenenitrile, 2-methyl-)
- Methanethiol (Thiomethanol)
- Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
- Metholonyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester)
- Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
- 2-Methylaziridine (1,2-Propylenimine)
- 3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
- Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
- 4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-)
- Methyl ethyl ketone (MEK) (2-Butanone)
- Methyl hydrazine (Hydrazine, methyl-)
- 2-Methylactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
- Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
- Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
- 2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime
- N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitros-N-methyl-N'nitro-)
- Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
- Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
- Mustard gas (Sulfide, bis(2-chloroethyl)-)
- Naphthalene
- 1,4-Naphthoquinone (1,4-Naphthalenedione)
- 1-Naphthylamine (alpha-Naphthylamine)
- 2-Naphthylamine (beta-Naphthylamine)
- 1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
- Nickel and compounds, N.O.S.*
- Nickel carbonyl (Nickel tetracarbonyl)
- Nickel cyanide (nickel (II) cyanide)
- Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
- Nitric oxide (Nitrogen (II) oxide)
- p-Nitroaniline (Benzenamine, 4-nitro-)
- Nitrobenzine (Benzene, nitro-) Nitrobenzene
- Nitrogen dioxide (Nitrogen (IV) oxide)
- Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
- Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydrochloride salt)
- Nitroglycerine (1,2,3-Propanetriol, trinitrate)
- 4-Nitrophenol (Phenol, 4-nitro-)
- 4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
- Nitrosamine, N.O.S.*
- N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
- N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
- N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)
- N-Nitrosodimethylamine (Dimethylnitrosamine)
- N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
- N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
- N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
- N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
- N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
- N-Nitrosomorpholine (Morpholine, N-nitroso-)
- N-Nitrosornicotine (Nornicotine, N-nitroso-)
- N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
- N-Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)
- N-Nitrososarcosine (Sarcosine, N-nitroso-)
- 5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
- Octamethylpyrophosphoramidate (Diphosphoramidate, octamethyl-)
- Osmium tetroxide (Osmium (VIII) oxide)
- 7-Ocabcyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)
- Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
- Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester)
- Pentachlorobenzene (Benzene, pentachloro-)
- Pentachlorodibenzo-p-dioxins
- Pentachlorodibenzofurans
- Pentachloroethane (Ethane, pentachloro-)
- Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
- Pentachlorophenol (Phenol, pentachloro-)
- Perchloromethyl mercaptan (Methanesulferry chloride, trichloro-)
- Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
- Phenol (Benzene, hydroxy-)
- Phenylenediamine (Benzenediamine)
- Phenylmercury acetate (Mercury, acetatophenyl-)
- N-Phenylthiourea (Thiourea, phenyl-)
- Phosgene (Carbonyl chloride)

- Phosphine (Hydrogen phosphide)
 Phosphorodithioic acid, O,O-diethyl S-
 [(ethylthio)methyl] ester (Phorate)
 Phosphorothioic acid, O,O-dimethyl O-[p-
 ((dimethylamino)sulfonyl)phenyl] ester
 (Famphur)
 Phthalic acid esters, N.O.S.* (Benzene, 1,2-
 dicarboxylic acid, esters, N.O.S.*
 Phthalic anhydride (1,2-Benzenedicarboxylic
 acid anhydride)
 2-Picoline (Pyridine, 2-methyl-)
 Polychlorinated biphenyl, N.O.S.*
 Potassium cyanide
 Potassium silver cyanide (Argentate(1-),
 dicyano-, potassium)
 Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-
 propynyl)benzamide)
 1,3-Propanesultone (1,2-Oxathiolane, 2,2-
 dioxide)
 Propionic acid, 2-(2,4,5-trichlorophenoxy), salts
 and esters (2,4,5-TP, Silvex, salts and esters)
 n-Propylamine (1-Propane)
 Propylthiouracil (2,3 dihydro-6-propyl-2
 thioxo-4(1H)-pyrimidinone)
 2-Propyn-1-ol (Propargyl alcohol)
 Pyridine
 Reserpine (Yohimban-16-carboxylic acid,
 11,17-dimethoxy-18-[(3,4,5-
 trimethoxybenzoyl)oxy]-, methyl ester)
 Resorcinol (1,3-Benzenediol)
 Saccharin and salts (1,2-Benzisothiazolin-3-
 one, 1,1-dioxide, and salts)
 Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
 Selenious acid (Selenium dioxide)
 Selenium and compounds, N.O.S.*
 Selenium sulfide (Sulfur selenide)
 Selenourea (Carbamimidoseleonic acid)
 Silver and compounds, N.O.S.*
 Silver cyanide
 Sodium cyanide
 Streptozotocin (D-Glucopyranose, 2-deoxy-2-
 (3-methyl-3-nitrosoureido)-)
 Strontium sulfide
 Strychnine and salts (Strychnidin-10-one, and
 salts)
 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-
 tetrachloro-)
 Tetrachlorodibenzo-p-dioxins
 Tetrachlorodibenzofurans
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
 Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
 Tetrachloroethane, N.O.S.* (Ethane,
 tetrachloro-, N.O.S.*)
 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-
 tetrachloro-)
 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-
 tetrachloro-)
 Tetrachlorethylene (Ethene, 1,1,2,2-tetrachloro-)¹
 Tetrachloromethane (Carbon tetrachloride)
 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-
 tetrachloro-)
 Tetraethyldithiopyrophosphate
 (Dithiopyrophosphoric acid, tetraethyl-
 ester)
 Tetraethyl lead (Plumbane, tetraethyl-)
 Tetraethylpyrophosphate (Pyrophosphoric
 acid, tetraethyl ester)
 Tetranitromethane (Methane, tetranitro-)
 Thallium and compounds, N.O.S.*
 Thallous oxide (Thallium (III) oxide)
 Thallium (I) acetate (Acetic acid, thallium (I)
 salt)
 Thallium (I) carbonate (Carbonic acid,
 dithallium (I) salt)
 Thallium (I) chloride
 Thallium (I) nitrate (Nitric acid, thallium (I)
 salt)
 Thallium selenite
 Thallium (I) sulfate (Sulfuric acid, thallium (I)
 salt)
 Thioacetamide (Ethanethioamide)
 Thiosemicarbazide
 (Hydrazinecarbothioamide)
 Thiourea (Carbamide thio-)
 Thiuram (Bis(dimethylthioucarbamoil)
 disulfide)
 Toluene (Benzene, methyl-)
 Toluenediamine, N.O.S. (Toluene,
 2,5-diamine-)
 2,4-Toluenediamine
 2,6-Toluenediamine
 3,4-Toluenediamine
 o-Toluidine hydrochloride (Benzenamine, 2-
 methyl-, hydrochloride)
 Tolyene diisocyanate (Benzene,
 2,4- and 2,6- diisocyanatomethyl-)
 Toxaphene (Camphene, octachloro-)
 Tribromomethane (Bromoform)
 1,2,4-Trichlorobenzene (Benzene, 1,2,4-
 trichloro-)
 1,1,1-Trichloroethane (Methyl chloroform)
 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
 Trichloroethene (Trichloroethylene)
 Trichloromonofluoromethane (Methane,
 trichlorofluoro-)
 2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
 2,4,5-Trichlorophenoxyacetic acid
 (2,4,5-T, salts and esters) (Acetic acid,
 2,4,5-trichlorophenoxy-, salts and esters)
 2,4,5-Trichlorophenoxypropionic acid
 (Propionic acid, 2-(2,4,5-
 trichlorophenoxy)), salts and esters
 (2,4,5-TP, Silvex, salts and esters))
 Trichloropropane, N.O.S.* (Propane,
 trichloro-, N.O.S.*)
 1,2,3-Trichloropropane (Propane, 1,2,3-
 trichloro-)
 O,O,O-Triethyl phosphorothioate
 (Phosphorothioic acid, O,O,O-triethyl ester)
 sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)

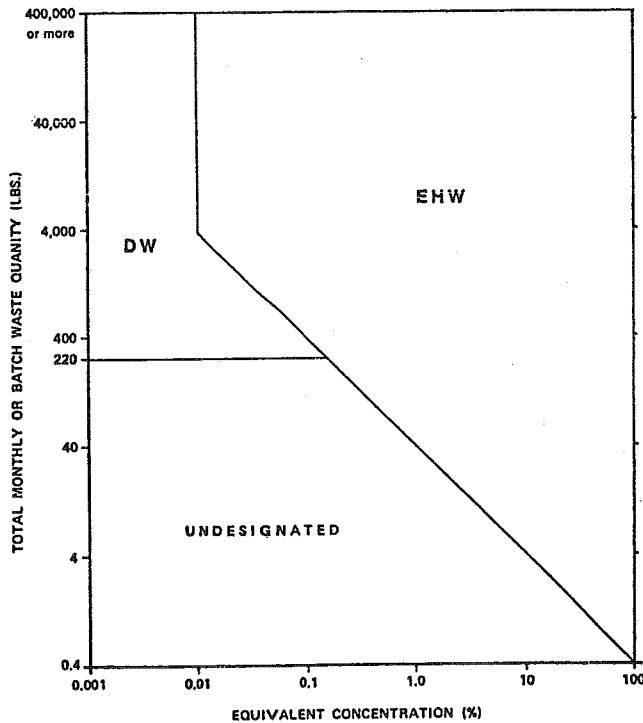
- Tris(1-aziridinyl) phosphine sulfide
(Phosphine sulfide, tris(1-aziridinyl-))
- Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
- Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
- Undecamethylenediamine, N,N'-bis-(2-chlorobenzyl)-,dihydrochloride N,N'-Undecamethylenebis(2-chlorobenzylamine, dihydrochloride)
- Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)
- Vanadic acid, ammonium salt (ammonium vanadate)
- Vanadium pentoxide (Vanadium (V) oxide)
- Vinyl chloride (Ethane, chloro-)
- Zinc cyanide
- Zinc phosphide

*The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

[Statutory Authority: Chapter 70.105 RCW. 89-02-059 (Order 88-24), § 173-303-9905, filed 1/4/89; 87-14-029 (Order DE-87-4), § 173-303-9905, filed 6/26/87; 86-12-057 (Order DE-85-10), § 173-303-9905, filed 6/3/86; 84-09-088 (Order DE 83-36), § 173-303-9905, filed 4/18/84. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-9905, filed 2/10/82.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

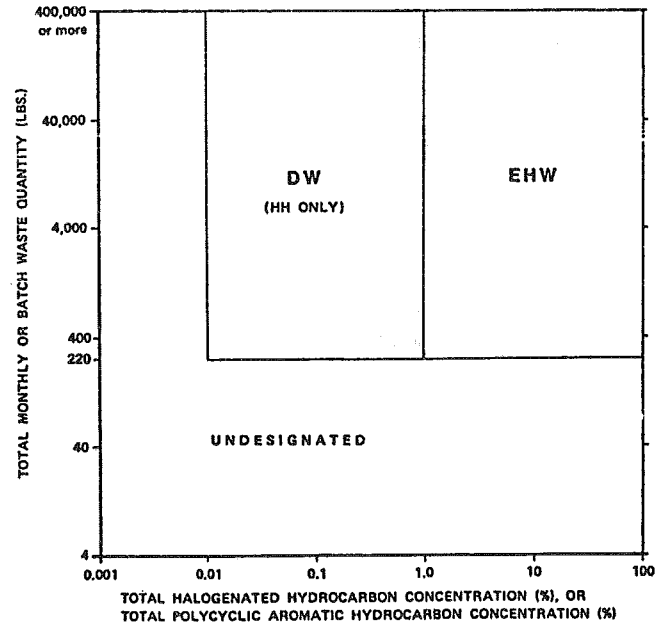
WAC 173-303-9906 Toxic dangerous waste mixtures graph.



[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-9906, filed 6/26/87. Statutory Authority: RCW

70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-9906, filed 2/10/82.]

WAC 173-303-9907 Persistent dangerous waste mixtures graph.



[Statutory Authority: Chapter 70.105 RCW. 87-14-029 (Order DE-87-4), § 173-303-9907, filed 6/26/87. Statutory Authority: RCW 70.95.260 and chapter 70.105 RCW. 82-05-023 (Order DE 81-33), § 173-303-9907, filed 2/10/82.]

**Chapter 173-304 WAC
MINIMUM FUNCTIONAL STANDARDS FOR
SOLID WASTE HANDLING**

- WAC
- 173-304-010 Authority and purpose.
 - 173-304-011 County planning requirements.
 - 173-304-012 Planning requirements for energy recovery or incineration facilities.
 - 173-304-015 Applicability.
 - 173-304-100 Definitions.
 - 173-304-130 Locational standards for disposal sites.
 - 173-304-190 Owner responsibilities for solid waste.
 - 173-304-195 Permit required.
 - 173-304-200 On-site containerized storage, collection and transportation standards for solid waste.
 - 173-304-300 Waste recycling facility standards.
 - 173-304-400 Solid waste handling facility standards.
 - 173-304-405 General facility requirements.
 - 173-304-407 General closure and post-closure requirements.
 - 173-304-410 Transfer stations, baling and compaction systems, and drop box facilities.
 - 173-304-420 Piles used for storage and treatment—Facility standards.
 - 173-304-430 Surface impoundment standards.
 - 173-304-440 Energy recovery and incinerator standards.
 - 173-304-450 Landspreading disposal standards.
 - 173-304-460 Landfilling standards.
 - 173-304-461 Inert waste and demolition waste landfilling facility requirements.
 - 173-304-462 Woodwaste landfilling facility requirements.
 - 173-304-463 Problem waste landfills. (Reserved)
 - 173-304-467 Financial assurance for public facilities.

173-304-468	Financial assurance for private landfill disposal facilities.
173-304-470	Other methods of solid waste handling.
173-304-490	Ground water monitoring requirements.
173-304-600	Permit requirements for solid waste facilities.
173-304-700	Variations.
173-304-9901	Maximum contaminant levels for ground water.

WAC 173-304-010 Authority and purpose. This regulation is promulgated under the authority of chapter 70.95 RCW to protect public health, to prevent land, air, and water pollution, and conserve the state's natural, economic, and energy resources by:

(1) Setting minimum functional performance standards for the proper handling of all solid waste materials originating from residences, commercial, agricultural and industrial operations and other sources;

(2) Identifying those functions necessary to assure effective solid waste handling programs at both the state and local level;

(3) Following the direction set by the legislature for the management of solid waste in order of descending priority as applicable:

- (a) Waste reduction;
- (b) Waste recycling;
- (c) Energy recovery or incineration;
- (d) Landfill.

(4) Describing the responsibility of persons, municipalities, regional agencies, state and local government under existing laws and regulations related to solid waste;

(5) Requiring use of the best available technology for siting, and all known available and reasonable methods for designing, constructing, operating and closing solid waste handling facilities; and

(6) Establishing these standards as minimum standards for solid waste handling to provide a state-wide consistency and expectation as to the level at which solid waste is managed throughout the state. Local ordinances setting standards for solid waste handling shall not be less stringent than these minimum standards, and shall be adopted not later than one year after the effective date of this regulation. Local ordinances need not adopt WAC 173-304-011, County planning requirements, but shall otherwise comply with the requirements of WAC 173-304-011. Solid waste regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department ninety days following adoption.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-010, filed 10/28/85.]

WAC 173-304-011 County planning requirements. The concept of "solid waste management" includes in addition to proper storage, collection, and disposal of discards, other management functions or operational activities including waste reduction, source separation, waste recycling, transportation, processing, treatment, resource recovery, energy recovery, incineration, and landfilling. Under the State Solid Waste Management Act, chapter 70.95 RCW, primary responsibility for managing solid waste is assigned to local government

(RCW 70.95.020). The state, however, is responsible for assuring that effective local programs are established throughout Washington state. Therefore, state and local solid waste planning for the aforementioned activities is an essential part of proper solid waste management.

(1) State responsibility. As described in RCW 70.95-.260, the department shall coordinate the development of a state solid waste management plan in cooperation with local government, the department of community development, and other appropriate state and regional agencies. The state plan shall be reviewed at two-year intervals, revised as necessary, and extended so that the plan shall look to the future for twenty years as a guide in carrying out a coordinated state solid waste management program.

(2) Local government responsibility. The overall purpose of local comprehensive solid waste planning is to determine the nature and extent of the various solid waste categories and to establish management concepts for their handling, utilization, and disposal consistent with the priorities established in RCW 70.95.010 for waste reduction, waste recycling, energy recovery and incineration, and landfill. Each local plan shall be prepared in accordance with RCW 70.95.080, 70.95.090, 70.95.100, and 70.95.110. Additionally, the department has available "Guidelines for the development of local or regional solid waste management plans and plan revisions" to be followed by local government. RCW 70.95-.165 also requires counties to establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-011, filed 10/28/85.]

WAC 173-304-012 Planning requirements for energy recovery or incineration facilities. In order to implement the priorities and provide a basis for permit requirements established in chapter 70.95 RCW, each comprehensive solid waste management plan shall contain an analysis for waste reduction and recycling. The analysis will include a determination of levels of waste reduction and recycling which could occur for solid wastes that are proposed to be landfilled or incinerated. The analysis shall include: A description of markets for recycled material, a review of waste generation trends, a description of waste composition, a cost analysis of the impact of recycling or reduction programs on collection and disposal rates and a discussion and description of any additional programs needed to assist public and private sector recycling programs.

[Statutory Authority: Chapter 70.95 RCW. 87-15-049 (Order 87-3), § 173-304-012, filed 7/14/87.]

WAC 173-304-015 Applicability. These regulations apply to solid wastes as that term is defined in WAC 173-304-100. These regulations shall not apply to the following solid wastes:

(1) Overburden from mining operations intended for return to the mine;

(2) Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution permits;

(3) Dangerous wastes as defined by chapter 70.105 RCW and chapter 173-303 WAC;

(4) Woodwaste used for ornamental, animal bedding, mulch and plant bedding, or roadbuilding purposes;

(5) Agricultural wastes, limited to manures and crop residues, returned to the soils at agronomic rates;

(6) Clean soils and clean dredge spoils as defined in WAC 173-304-100 or as otherwise regulated by section 404 of the Federal Clean Water Act (PL 95-217);

(7) Septage taken to a sewage treatment plant permitted under chapter 90.48 RCW;

(8) Radioactive wastes, defined by chapters 402-12 and 402-19 WAC; and

(9) Wood debris resulting from the harvesting of timber and whose disposal is permitted under chapter 76.04 RCW, the State Forest Practices Act.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-015, filed 10/28/85.]

WAC 173-304-100 Definitions. When used in this regulation, the following terms have the meanings given below.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Buffer zones shall not be considered part of the active area of a facility.

(2) "Agricultural wastes" means wastes on farms resulting from the production of agricultural products including but not limited to manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(3) "Agronomic rates" means the rates of application of sludges, manures, or crop residues in accordance with rates specified by the appropriate fertilizer guide for the crop under cultivation.

(4) "Air quality standard" means a standard set for maximum allowable contamination in ambient air as set forth in chapter 173-400 WAC, General regulations for air pollution sources.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(6) "Ashes" means the residue including any air pollution flue dusts from combustion or incineration of material including solid wastes.

(7) "Balefill" means a landfill which uses compacted bales of solid waste to form discrete lifts as the landfill is filled.

(8) "Buffer zone" means that part of a facility that lies between the active area and the property boundary.

(9) "Bulky waste" means large items of refuse, such as appliances, furniture, and other oversize wastes which would typically not fit into reusable or disposable containers.

(10) "Clean soils and clean dredge spoils" means soils and dredge spoils which are not dangerous wastes or problem wastes as defined in this section.

(11) "Closure" means those actions taken by the owner or operator of a solid waste site or facility to cease disposal operations and to ensure that all such facilities are closed in conformance with applicable regulations at the time of such closures and to prepare the site for the post-closure period.

(12) "Collecting agency" means any agency, business or service operated by a person for the collecting of solid waste.

(13) "Compliance schedule" means a written schedule of required measures in a permit including an enforceable sequence leading to compliance with these regulations.

(14) "Composting" means the controlled degradation of organic solid waste yielding a product for use as a soil conditioner.

(15) "Container" means a device used for the collection, storage, and/or transportation of solid waste including but not limited to reusable containers, disposable containers, detachable containers and tanks, fixed or detachable.

(16) "Contaminate" means to allow to discharge a substance into ground water that would cause:

(a) The concentration of that substance in the ground water to exceed the maximum contamination level specified in WAC 173-304-9901, or

(b) A statistically significant increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the maximum contaminant level specified in WAC 173-304-9901, or

(c) A statistically significant increase above background in the concentration of a substance which:

(i) Is not specified in WAC 173-304-9901, and

(ii) Is present in the solid waste, and

(iii) Has been determined to present a substantial risk to human health or the environment in the concentrations found at the point of compliance by the jurisdictional health department in consultation with the department and the department of social and health services.

(17) "Cover material" means soil or other suitable material that has been approved by the jurisdictional health department as cover for wastes.

(18) "Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC.

(19) "Demolition waste" means solid waste, largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (i.e., sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process and asbestos wastes are not considered to be demolition waste for the purposes of this regulation.

(20) "Department" means the department of ecology.

(21) "Detachable containers" means reusable containers that are mechanically loaded or handled such as a "dumpster" or drop box.

(22) "Disposable containers" means containers that are used once to handle solid waste such as plastic bags, cardboard boxes and paper bags.

(23) "Disposal" or "deposition" means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

(24) "Disposal site" means the location where any final treatment, utilization, processing, or deposition of solid waste occurs. See also the definition of interim solid waste handling site.

(25) "Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.

(26) "Energy recovery" means the recovery of energy in a useable form from mass burning or refuse derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) processing.

(27) "Existing facility" means a facility which is owned or leased, and in operation, or for which construction has begun, on or before the effective date of this regulation and the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss for physical construction of the facility to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of this regulation shall be considered existing facilities.

(28) "Expanded facility" means a facility adjacent to an existing facility for which the land is purchased and approved by the jurisdictional health department after the effective date of this regulation. A vertical expansion approved and permitted by the jurisdictional health department after the effective date of this regulation shall also be considered an expanded facility.

(29) "Facility" means all contiguous land (including buffer zones) and structures, other appurtenances, and improvements on the land used for solid waste handling.

(30) "Facility structures" means buildings, sheds, utility lines, and drainage pipes on the facility.

(31) "Final treatment" means the act of processing or preparing solid waste for disposal, utilization, reclamation, or other approved method of use.

(32) "Free liquids" means any sludge which produces measurable liquids when the Paint Filter Liquids Test,

Method 9095 of EPA Publication Number SW-846, is used.

(33) "One hundred year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source.

(34) "Garbage" means unwanted animal and vegetable wastes and animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, swill and carcasses of dead animals, and of such a character and proportion as to be capable of attracting or providing food for vectors, except sewage and sewage sludge.

(35) "Ground water" means that part of the subsurface water which is in the zone of saturation.

(36) "Holocene fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side and that has occurred in the most recent epoch of the quaternary period extending from the end of the pleistocene to the present.

(37) "Incineration" means reducing the volume of solid wastes by use of an enclosed device using controlled flame combustion.

(38) "Interim solid waste handling site" means any interim treatment, utilization or processing site engaged in solid waste handling which is not the final site of disposal. Transfer stations, drop boxes, baling and compaction sites, source separation centers, and treatment are considered interim solid waste handling sites.

(39) "Industrial solid wastes" means waste by-products from manufacturing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC.

(40) "Inert wastes" means noncombustible, nondangerous solid wastes that are likely to retain their physical and chemical structure under expected conditions of disposal, including resistance to biological attack and chemical attack from acidic rainwater.

(41) "Jurisdictional health department" means city, county, city-county or district public health department.

(42) "Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

(43) "Landspreading disposal facility" means a facility that applies sludges or other solid wastes onto or incorporates solid waste into the soil surface at greater than vegetative utilization and soil conditioners/immobilization rates.

(44) "Leachate" means water or other liquid that has been contaminated by dissolved or suspended materials due to contact with solid waste or gases therefrom.

(45) "Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

(46) "Lower explosive limits" means the lowest percentage by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five degrees centigrade and atmospheric pressure.

(47) "Medical waste" means all the infectious, and injurious waste originating from a medical, veterinary, or intermediate care facility.

(48) "New facility" means a facility which begins operation or construction after the effective date of this regulation (see also definition of "existing facility").

(49) "Nonconforming site" means a solid waste handling facility which does not currently comply with the facility requirements of WAC 173-304-400 but does comply with a compliance schedule issued in a solid waste permit by the jurisdictional health department.

(50) "Nuisance" consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures, or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

(51) "Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(52) "Performance standard" means the criteria for the performance of solid waste handling facilities.

(53) "Permeability" means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(54) "Permit" means an authorization issued by the jurisdictional health department which allows a person to perform solid waste activities at a specific location and which includes specific conditions for such facility operations.

(55) "Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life and during closure and post-closure.

(58) "Point of compliance" means that part of ground water that lies beneath the perimeter of a solid waste facilities' active area as that active area would exist at closure of the facility.

(59) "Post-closure" means the requirements placed upon disposal sites after closure to ensure their environmental safety for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation).

(60) "Premises" means a tract or parcel of land with or without habitable buildings.

(61) "Problem wastes" means: (a) Soils removed during the cleanup of a remedial action site, or a dangerous

waste site closure or other cleanup efforts and actions and which contain harmful substances but are not designated dangerous wastes, or (b) dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and the dredge spoils are not dangerous wastes and are not regulated by section 404 of the Federal Clean Water Act (PL 95-217).

(62) "Processing" means an operation to convert a solid waste into a useful product or to prepare it for disposal.

(63) "Putrescible waste" means solid waste which contains material capable of being decomposed by micro-organisms.

(64) "Pyrolysis" means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.

(65) "Reclamation site" means a location used for the processing or the storage of recycled waste.

(66) "Reusable containers" means containers that are used more than once to handle solid waste such as garbage cans.

(67) "Run-off" means any rainwater, leachate or other liquid which drains over land from any part of the facility.

(68) "Run-on" means any rainwater or other liquid which drains over land onto any part of a facility.

(69) "Scavenging" means the removal of materials at a disposal site, or interim solid waste handling site without the approval of the owner or operator and the jurisdictional health department.

(70) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

(71) "Sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment plant or other source.

(72) "Sole source aquifer" means an aquifer designated by the Environmental Protection Agency pursuant to Section 1424e of the Safe Drinking Water Act (PL 93-523).

(73) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid, materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.

(74) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the

conversion of the energy in such wastes to more useful forms or combinations thereof.

(75) "Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

(76) "Storage" means the holding of solid waste materials for a temporary period.

(77) "Twenty-five year storm" means a storm of a particular duration and of such an intensity that it has a four percent probability of being equalled or exceeded each year.

(78) "Twenty-four hour, twenty-five year storm" means a twenty-five year storm of twenty-four hours duration.

(79) "Stream" means the point at which any confined freshwater body of surface water reaches a mean annual flow of twenty cubic feet per second.

(80) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquids or sludges. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(81) "Surface water" means all lakes, rivers, ponds, streams, inland waters, salt waters and all other water and water courses within the jurisdiction of the state of Washington.

(82) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a solid waste handling facility. Transfer stations may also include recycling facilities.

(83) "Treatment" means the physical, chemical or biological processing of solid waste to make such solid wastes safer for storage or disposal, amenable for energy or material resource recovery or reduced in volume.

(84) "Utilization" means consuming, expending, or exhausting by use, solid waste materials.

(85) "Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

(86) "Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

(87) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.

(88) "Waste reduction" means reducing the amount or type of waste generated.

(89) "Water quality standard" means a standard set for maximum allowable contamination in surface waters as set forth in chapter 173-201 WAC, Water quality standards for waters of the state of Washington.

(90) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of

vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, estuaries, and similar areas.

(91) "Woodwaste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes but is not limited to sawdust, chips, shavings, bark, pulp, hog fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

(92) "Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

(93) "Buy-back recycling center" means any facility which collects, receives, or buys recyclable materials from household, commercial, or industrial sources for the purpose of accumulating, grading, or packaging recyclable materials for subsequent shipment and reuse, other than direct application to land.

(94) "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.

(95) "Industrial wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of industrial wastewater.

(96) "Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

(97) "Reserved" means a section having no requirements and which is set aside for future possible rule-making as a note to the regulated community.

(98) "Limited purpose landfills" means a landfill that receives solid waste of limited types, known and consistent composition, other than woodwastes, garbage, inert waste, and demolition waste.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-100, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-100, filed 10/28/85.]

WAC 173-304-130 Locational standards for disposal sites. (1) Applicability. These standards apply to all new and expanded disposal sites including landfills, landspreading disposal sites, and piles and surface impoundments that are to be closed as landfills. These standards do not apply to:

(a) Existing facilities or facilities that have engaged in closure and closed before the effective date of this regulation;

(b) Interim solid waste handling sites;

(c) Energy recovery and incineration sites;

(d) Piles and surface impoundments used for storage, unless otherwise referred to in WAC 173-304-400, Solid waste handling facility standards;

(e) Utilization of sludge and other waste on land;

(f) Inert wastes and demolition wastes as defined in WAC 173-304-100 unless otherwise referred to in

WAC 173-304-400, Solid waste handling facility standards; and

(g) Problem wastes, as defined in WAC 173-304-100.

(2) Locational standards. All applicable solid waste facilities shall be subject to the following locational standards:

(a) Geology. No facility shall be located over a holocene fault, in subsidence areas, or on or adjacent to geologic features which could compromise the structural integrity of the facility.

(b) Ground water.

(i) No facility shall be located at a site where the bottom of the lowest liner is any less than ten feet above the seasonal high level of ground water in the uppermost aquifer, or five feet when a hydraulic gradient control system or the equivalent has been installed to control ground water fluctuations;

(ii) No landfill shall be located over a sole source aquifer; and

(iii) No facility's active area shall be located closer than one thousand feet to a down-gradient drinking water supply well, in use and existing at the time of the county's adoption of the comprehensive solid waste management plan unless the owner or operator can show that the active area is no less than ninety days travel time hydraulically to the nearest down-gradient drinking water supply well in the uppermost useable aquifer.

(c) Natural soils. See WAC 173-304-400, such as WAC 173-304-460 (3)(c)(i), landfill liners;

(d) Flooding. See WAC 173-304-400 such as WAC 173-304-460 (3)(d), landfill, floodplains;

(e) Surface water. No facility's active area shall be located within two hundred feet measured horizontally, of a stream, lake, pond, river, or salt water body, nor in any wetland nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4);

(f) Slope. No facility's active area shall be located on any hill whose slope is unstable;

(g) Cover material. See WAC 173-304-400, such as WAC 173-304-460 (3)(e), landfills, closure;

(h) Capacity. See WAC 173-304-400, such as WAC 173-304-460, Landfilling standards, (for standards that vary according to capacity);

(i) Climatic factors. See WAC 173-304-400 such as WAC 173-304-460(3) landfill standards, (for standards applicable to arid climates);

(j) Land use. No facility shall be located:

(i) Within ten thousand feet of any airport runway currently used by turbojet aircraft or five thousand feet of any airport runway currently used by only piston-type aircraft unless a waiver is granted by the federal aviation administration. This requirement is only applicable where such facility is used for disposing of garbage such that a bird hazard to aircraft would be created;

(ii) In areas designated by the United States Fish and Wildlife Service or the department of game as critical habitat for endangered or threatened species of plants, fish, or wildlife;

(iii) So that the active area is any closer than one hundred feet to the facility property line for land zoned as nonresidential, except that the active area may be no closer than two hundred and fifty feet to the property line of adjacent land zoned as residential existing at the time of the county's adoption of the comprehensive solid waste management plan;

(iv) So as to be at variance with any locally-adopted land use plan or zoning requirement unless otherwise provided by local law or ordinance; and

(v) So that the active area is any closer than one thousand feet to any state or national park.

(k) Toxic air emissions. See WAC 173-304-400 such as WAC 173-304-460 (2)(b), landfill performance standards.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-130, filed 10/28/85.]

WAC 173-304-190 Owner responsibilities for solid waste. The owner, operator, or occupant of any premise, business establishment, or industry shall be responsible for the satisfactory and legal arrangement for the solid waste handling of all solid waste accumulated by them on the property.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-190, filed 10/28/85.]

WAC 173-304-195 Permit required. After approval by the department of the comprehensive solid waste plan required by RCW 70.95.100, no solid waste disposal site or facility shall be maintained, established, substantially altered, expanded or improved until the county, city or other person operating or owning such site has obtained a permit from the jurisdictional health department pursuant to the provisions of WAC 173-304-600.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-195, filed 10/28/85.]

WAC 173-304-200 On-site containerized storage, collection and transportation standards for solid waste.

(1) Applicability. These standards apply to all persons storing containerized solid waste generated on-site, and to all persons who are engaged in the collection and transportation of solid waste of more than one single family residence or single family farm including collection and transportation of septage and septic tank pumpings.

(2) On-site storage standards.

(a) The owner or occupant of any premises, business establishment, or industry shall be responsible for the safe and sanitary storage of all containerized solid wastes accumulated at that premises.

(b) The owner, operator, or occupant of any premises, business establishment, or industry shall store containerized solid wastes in containers that meet the following requirements:

(i) Disposable containers shall be sufficiently strong to allow lifting without breakage and shall be thirty-two gallons in capacity or less where manual handling is practiced;

(ii) Reusable containers, except for detachable containers, shall be:

- (A) Rigid and durable;
- (B) Corrosion resistant;
- (C) Nonabsorbent and water tight;
- (D) Rodent-proof and easily cleanable;
- (E) Equipped with a close fitting cover;
- (F) Suitable for handling with no sharp edges or other hazardous conditions; and
- (G) Equal to or less than thirty-two gallons in volume where manual handling is practiced.

(iii) Detachable containers shall be durable, corrosion-resistant, nonabsorbent, nonleaking and having either a solid cover or screen cover to prevent littering.

(3) Collection and transportation standards.

(a) All persons collecting or transporting solid waste shall avoid littering, or the creation of other nuisances at the loading point, during transport and for the proper unloading of the solid waste at a permitted transfer station, or other permitted solid waste handling site.

(b) Vehicles or containers used for the collection and transportation of solid waste shall be tightly covered or screened where littering may occur, durable and of easily cleanable construction. Where garbage is being collected or transported, containers shall be cleaned as necessary to prevent nuisances, odors and insect breeding and shall be maintained in good repair.

(c) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such manner that the contents will not fail, leak in quantities to cause a nuisance, or spill therefrom. Where such spillage or leakage does occur, the waste shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area otherwise properly cleaned.

(d) All persons commercially collecting or transporting solid waste shall inspect collection and transportation vehicles monthly, for repairs to containers such as missing or loose-fitting covers or screens, leaking containers, etc., and maintain such inspection records at the facility normally used to park such vehicles or such other location that maintenance records are kept. Such records shall be kept for a period of at least two years, and be made available upon the request of the jurisdictional health department.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-200, filed 10/28/85.]

WAC 173-304-300 Waste recycling facility standards. (1) Applicability.

(a) These standards apply to facilities engaged in recycling or utilization of solid waste on the land, including but not limited to:

- (i) Noncontainerized composting in piles;
- (ii) Utilization of sewage sludge, septage and other organic wastes on land for beneficial use;
- (iii) Accumulation of wastes in piles for recycling or utilization.

(b) These standards do not apply to:

- (i) Single family residences and single family farms engaged in composting of their own wastes;

(ii) Facilities engaged in the recycling of solid waste containing garbage, such as garbage composting, which are subject to WAC 173-304-400, Solid waste handling facility standards;

(iii) Facilities engaged in the storage of tires which are subject to WAC 173-304-400, Solid waste handling facility standards;

(iv) Problem wastes as defined in WAC 173-304-100;

(v) Facilities engaged in recycling of solid waste stored in surface impoundments which are subject to WAC 173-304-400, Solid waste handling facility standards; and

(vi) Woodwaste or hog fuel piles to be used as fuel or raw materials stored temporarily in piles being actively used so long as the criteria of WAC 173-304-300 (3)(c)(i) are met.

(c) These standards do not apply to any facility that recycles or utilizes solid wastes in containers, tanks, vessels, or in any enclosed building, including buy-back recycling centers.

(2) Effective dates. All existing facilities recycling solid waste not in conformance with this section shall be placed upon a compliance schedule under WAC 173-304-600(1) to assure compliance within two years of the effective date of this regulation.

(3) Waste recycling requirements.

(a) All applicable solid waste recycling facilities shall apply for and obtain a solid waste permit under WAC 173-304-600, permits.

(b) Applicable waste recycling facilities shall submit annual reports to the jurisdictional health department and the department by March 1 of the following year for which the data is collected on forms supplied by the department. The annual reports shall include quantities and types of waste recycled for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4). Such facilities may request and be assured of confidentiality for their reports in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(c) All facilities storing solid waste in outdoor piles or surface impoundments for the purpose of waste recycling shall be considered to be storing or disposing of solid waste if:

(i) At least fifty percent of the material has not been shown to have been recycled in the past three years and any material has been on-site more than five years; or

(ii) Ground water or surface water, air, and/or land contamination has occurred or will likely occur under current conditions of storage or in case of fire, or flood.

Upon such a determination by the jurisdictional health department that (c)(i) or (ii) of this subsection are met, the jurisdictional health department may require a permit application and issuance of a permit under WAC 173-304-600 of these rules.

(d) Waste recycling facilities shall allow jurisdictional health department and department representatives entry for inspection purposes and to determine compliance with these rules at reasonable times.

(e) All applicable waste recycling facilities shall not conflict with the county comprehensive solid waste management plan required by WAC 173-304-011 of these rules.

(f) All waste recycling facilities shall comply with applicable local, state and federal laws and regulations, including but not limited to environmental regulations and laws.

(4) Sewage sludge utilization requirements.

In addition to the requirements of subsection (3) of this section, all facilities utilizing sewage sludge, including septage shall comply with the department's *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11, dated September 1982 or as hereafter amended. Facilities utilizing sewage sludge on the land in a manner not consistent with nor meeting the requirement of the guidelines are required to meet the landspreading disposal standards of WAC 173-304-450.

(5) Woodwaste and other organic sludge utilization requirements.

(a) Facilities utilizing woodwaste not otherwise excluded under WAC 173-304-015, shall comply with these recycling standards. Applying woodwaste and other primarily organic sludges such as pulp and paper mill treatment sludges to the land shall be in a manner consistent with the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11 dated September 1982 or as hereafter amended. Only agricultural or silvicultural sites where such sludges are demonstrated to have soil conditioning or fertilizer value shall be acceptable, provided that the woodwaste and other primarily organic sludges are applied as a soil conditioner or fertilizer in accordance with accepted agricultural and silvicultural practice. Facilities utilizing woodwaste or other primarily organic sludges on the land in a manner not consistent with nor meeting the requirement of the guidelines are required to meet the landspreading disposal standards of WAC 173-304-450.

(b) Facilities utilizing woodwaste or other primarily organic sludges shall also comply with the standards of subsection (3) of this section.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-300, filed 10/28/85.]

WAC 173-304-400 Solid waste handling facility standards. (1) Applicability. The standards of WAC 173-304-405 through 173-304-490 are the solid waste handling facility standards and apply to all solid waste handling facilities, except for:

(a) Waste recycling facilities, whose standards are spelled out in WAC 173-304-300;

(b) On-site containerized storage, collection and transportation facilities which are spelled out in WAC 173-304-200;

(c) Single family residences and single family farms whose year round occupants engage in solid waste handling of the single family's solid waste on-site;

(d) Problem wastes as defined in WAC 173-304-100;

(e) Solid waste handling facilities that have engaged in closure and closed before the effective date of this regulation; and

(f) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits except for any portion that utilizes or engages in landspreading disposal sludges or solid residues directly on the land.

(2) Standards for permits. The standards of WAC 173-304-405 through 173-304-490 shall be used as the basis for permitting as required in WAC 173-304-600.

(3) Effective dates.

(a) All existing facilities not in conformance with the following sections of the facility standards shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within eighteen months of the effective date of this regulation for:

(i) The general facility standards, WAC 173-304-405;

(ii) The transfer stations, baling and compaction standards, WAC 173-304-410;

(iii) Ground water monitoring required in WAC 173-304-490;

(iv) The landfill operating and maintenance standards, WAC 173-304-460(4);

(v) The tire pile standards of WAC 173-304-420(4); and

(vi) The landspreading disposal standards of WAC 173-304-450(5).

(b) All applicable solid waste facilities shall be in compliance with the general closure and post-closure standards of WAC 173-304-407 and the financial assurance standards of WAC 173-304-467 and 173-304-468 by twelve months after the effective date of WAC 173-304-407, 173-304-467, and 173-304-468, except for owners or operators of existing facilities that have a closure plan approved by the jurisdictional health department in a solid waste permit issued before the effective date of these amendments and are closing before November 27, 1989. Existing solid waste facilities shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure compliance by the effective date of this subsection.

(c) All existing solid waste facilities not in conformance with facility standards other than those in (a) and (b) of this subsection shall be placed upon compliance schedules under WAC 173-304-600 (1)(c) to assure full compliance within four years of the effective date of this regulation.

(d) All new and expanded facilities other than those in (b) of this subsection shall meet the facility standards of WAC 173-304-405 to 173-304-490 after the effective date of this regulation.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-400, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-400, filed 10/28/85.]

WAC 173-304-405 General facility requirements.

(1) Applicability. All applicable solid waste handling facilities shall meet the requirements of this section.

(2) Plan of operation. Each owner or operator shall develop, keep and abide by a plan of operation approved as part of the permitting process in WAC 173-304-600. The plan shall describe the facilities' operation and shall

convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health officer. The facility must be operated in accordance with the plan or the plan must be so modified with the approval of the jurisdictional health department. Owners or operators of drop boxes may develop a generic plan of operation applicable to all such drop boxes, owned or operated.

Each plan of operation shall include:

- (a) How solid wastes are to be handled on-site during its active life;
- (b) How inspections and monitoring are conducted and their frequency;
- (c) Actions to take if there is a fire or explosion;
- (d) Actions to take if leaks are detected;
- (e) Corrective action programs to take if ground water is contaminated;
- (f) Actions to take for other releases (e.g. failure of run-off containment system);
- (g) How equipment such as leachate collection and gas collection equipment are to be maintained;
- (h) A safety plan or procedure; and
- (i) Other such details as required by the jurisdictional health department.

(3) Recordkeeping. Each owner or operator shall maintain daily operating records on the weights (or volumes), number of vehicles entering and, if available, the types of wastes received. Major deviations from the plan of operation shall also be noted on the operating record.

(4) Reporting. Each owner or operator shall prepare and submit a copy of an annual report to the jurisdictional health department and the department by March 1 of each year. The annual report shall cover facility activities during the previous year and must include the following information:

- (a) Name and address of the facility;
- (b) Calendar year covered by the report;
- (c) Annual quantity, in tons, or volume, in cubic yards, and estimated in-place density in pounds per cubic yard of solid waste handled, by type of solid waste if available, for each type of treatment, storage, or disposal facility, including applicable recycling facilities; and

(d) Results of ground water monitoring required in WAC 173-304-490.

(5) Inspections. The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors and discharges which may cause or lead to the release of wastes to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and the handwritten signature of the inspector, a notation of observations made and the date and nature of any repairs or corrective action. The log or summary must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be

available to the jurisdictional health department upon request.

(6) Recording with county auditor. Maps and a statement of fact concerning the location of the disposal site shall be recorded as part of the deed with the county auditor not later than three months after closure. Records and plans specifying solid waste amounts, location and periods of operation shall be submitted to the local zoning authority or the authority with jurisdiction over land use and be made available for inspection.

(7) State and local requirements. All solid waste disposal facilities shall comply with all state and local requirements such as zoning land use, fire protection, water pollution prevention, air pollution prevention, nuisance and aesthetics.

[Statutory Authority: RCW 70.95.215, 88-20-066 (Order 88-28), § 173-304-405, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-405, filed 10/28/85.]

WAC 173-304-407 General closure and post-closure requirements. (1) Applicability. The requirements of subsections (2), (3), (4), and (5) of this section apply to all solid waste handling facilities. The requirements of subsections (6), (7), and (8) of this section apply to:

- (a) Landfills subject to WAC 173-304-460 including limited purpose landfills under WAC 173-304-460(5);
- (b) Surface impoundments under WAC 173-304-430(2)(g) closed with waste remaining in place;
- (c) Woodwaste landfills under WAC 173-304-462; and
- (d) Landspreading disposal facilities under WAC 173-304-450(2).

(2) Effective dates. Existing facilities subject to the requirements of this section shall meet the applicable facility standards of this section within twelve months of the effective date of this regulation. All new or expanded facilities subject to the requirements of this section shall meet the applicable facility standards on the effective date of this regulation.

(3) Closure performance standard. Each owner or operator shall close their facility in a manner that:

- (a) Minimizes the need for further maintenance;
- (b) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated rainfall or waste decomposition products to the ground, ground water, surface water, and the atmosphere; and

(c) Prepares the facility for the post-closure period.

(4) Closure plan and amendment(s). Closure as defined in WAC 173-304-100(11), includes but is not limited to grading, seeding, landscaping, contouring, and/or screening. For interim solid waste handling sites, closure includes waste removal and decontamination of the site.

(a) Each owner or operator shall develop, keep and abide by a plan of closure approved by the jurisdictional health department as part of the permitting process in WAC 173-304-600.

(b) The closure plan shall project time intervals at which sequential partial closure is to be implemented,

and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument.

(c) Each owner or operator shall not commence disposal operations in any part of a facility until a closure plan for the entire facility has been approved by the jurisdictional health department, and until a financial assurance instrument has been provided, as required by applicable laws and regulations.

(d) The jurisdictional health department shall approve, disapprove, or require amendment of the closure plan as part of the permitting process of WAC 173-304-600 in accordance with applicable laws and regulations.

(e) Each owner and operator shall close the facility in accordance with the approved closure plan and all approved amendments.

(5) Closure procedures.

(a) Each owner and operator shall notify the jurisdictional health department and where applicable, the financial assurance instrument trustee, of the intent to implement the closure plan in part or whole, no later than one hundred eighty days prior to the projected final receipt of waste at the entire facility unless otherwise specified in the closure plan.

(b) The owner or operator shall commence implementation of the closure plan in part or whole within thirty days after receipt of the final volume of waste and/or attaining the final landfill elevation at part of or at the entire facility as identified in the approved facility closure plan unless otherwise specified in the closure plan.

(c) Waste shall not be accepted for disposal or for use in closure except as identified in the closure plan approved by the jurisdictional health department, as required in subsection (3)(a) of this section.

(d) When facility closure is completed in part or whole, each owner and operator shall submit the following to the jurisdictional health department:

(i) Facility closure plan sheets signed by a professional engineer registered in the state of Washington and modified as necessary to represent as-built changes to final closure construction as approved in the closure plan;

(ii) Certification by the owner or operator, and a professional engineer registered in the state of Washington that the site has been closed in accordance with the approved closure plan.

(e) The jurisdictional health department shall notify the owner or operator and the department of ecology of the date when the facility post-closure period has begun, which period shall commence when the jurisdictional health department has verified the facility has been closed in accordance with the specifications of the approved closure plan and the closure requirements of this section.

(6) Post-closure performance standard. Each owner or operator shall provide post-closure activities to allow for continued facility maintenance and monitoring of air, land, and water as long as necessary for the facility to stabilize and to protect human health and the environment.

(7) Post-closure plan and amendment. For disposal facilities; post-closure includes ground water monitoring; surface water monitoring; gas monitoring; and maintenance of the facility, facility structures, and monitoring systems for their intended use for a period of twenty years and any other activities deemed appropriate by the jurisdictional health department.

(a) Each owner or operator shall develop, keep and abide by a post-closure plan approved as a part of the permitting process in WAC 173-304-600. The post-closure plan shall address facility maintenance and monitoring activities for at least a twenty-year period or until the site becomes stabilized (i.e., little or no settlement, gas production or leachate generation), and monitoring of ground water, surface water, and gases can be safely discontinued.

(b) The post-closure plan shall project time intervals at which post-closure activities are to be implemented, and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(c) Each owner or operator shall not commence disposal operations in any part of a facility until a post-closure plan for the entire facility has been approved by the jurisdictional health department, and until a financial assurance instrument has been provided where applicable, as required by WAC 173-304-467.

(d) Each owner or operator shall complete the post-closure activities in accordance with the approved post-closure plan and schedule. Facility post-closure activities shall be completed in accordance with the approved post-closure plan or the plan shall be so amended with the approval of the jurisdictional health department.

(e) The jurisdictional health department may determine that a facility post-closure plan is invalid and require an owner or operator to amend the facility post-closure plan.

(i) The health department may direct facility post-closure activities, in part or whole, to cease until the post-closure plan amendment has received written approval by the health department.

(ii) When the health department determines a facility post-closure amendment is required, the health department shall, after consultation with the owner/operator, designate a compliance schedule for submittal of the amendment and its review and approval by the department.

(8) Post-closure procedures.

(a) Each owner or operator shall commence post-closure activities after completion of closure activities outlined in subsection (5)(d)(i) and (ii) of this section. The jurisdictional health department may direct that post-closure activities cease until the owner or operator receives a notice to proceed with post-closure activities.

(b) When post-closure activities are complete, the owner or operator shall certify to the jurisdictional health department, signed by the owner or operator, and a professional engineer registered in the state of Washington stating why post-closure activities are no

longer necessary (i.e., little or no settlement, gas production, or leachate generation).

(c) If the jurisdictional health department finds that post-closure monitoring has established that the facility is stabilized (i.e., little or no settlement, gas production, or leachate generation), the health department may authorize the owner or operator to discontinue post-closure maintenance and monitoring activities.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-407, filed 10/4/88.]

WAC 173-304-410 Transfer stations, baling and compaction systems, and drop box facilities. (1) Applicability. All transfer stations, baling and compaction systems and drop boxes receiving solid waste from off-site shall meet the requirements of this section. Facilities receiving solid waste from on-site shall meet the requirements of WAC 173-304-200.

(2) Transfer stations, baling and compacting systems standards. Transfer stations, baling and compaction systems shall be designed, constructed, and operated so as to:

(a) Be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building;

(b) Be sturdy and constructed of easily cleanable materials;

(c) Be free of potential rat harborages, and provide effective means to control rodents, insects, birds and other vermin;

(d) Be adequately screened to prevent blowing of litter and to provide effective means to control litter;

(e) Provide protection of the tipping floor from wind, rain or snow other than below grade bins or detachable containers;

(f) Have an adequate buffer zone around the operating area to minimize noise and dust nuisances, and for transfer stations, baling, or compaction systems, a buffer zone of fifty feet from the active area to the nearest property line in areas zoned residential;

(g) Comply with local zoning and building codes including approved local variances and waivers;

(h) Provide pollution control measures to protect surface and ground waters, including run-off collection and discharge designed and operated to handle a twenty-four hour, twenty-five year storm and equipment cleaning and washdown water;

(i) Provide all-weather approach roads, exit roads, and all other vehicular areas;

(j) Provide pollution control measures to protect air quality including a prohibition against all burning and the development of odor and dust control plans to be made a part of the plan of operation in WAC 173-304-405(2);

(k) Prohibit scavenging;

(l) Provide attendant(s) on-site during hours of operation;

(m) Have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours

during which the site is open for public use, what constitutes materials not to be accepted and other necessary information posted at the site entrance;

(n) Have communication capabilities to immediately summon fire, police, or emergency service personnel in the event of an emergency; and

(o) Remove all wastes at closure, as defined in WAC 173-304-100, from the facility to a permitted facility.

(3) Drop box facility standards. Drop box facilities, as defined in WAC 173-304-100, shall:

(a) Be constructed of durable water tight materials with a lid or screen on top that prevents the loss of materials during transport and access by rats and other vermin;

(b) Be located in an easily identifiable place accessible by all-weather roads;

(c) Be designed and serviced as often as necessary to ensure adequate dumping capacity at all times. Storage of solid waste outside the drop boxes is prohibited;

(d) Comply with subsection (2)(m) of this section, signs; and

(e) Remove all remaining wastes at closure, as defined in WAC 173-304-100, to a permitted facility, and remove the drop box from the facility.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-410, filed 10/28/85.]

WAC 173-304-420 Piles used for storage and treatment--Facility standards. (1) Applicability.

(a) This section is applicable to solid wastes stored or treated in piles as defined in WAC 173-304-100 where putrescible wastes (other than garbage) are in place for more than three weeks, other wastes not intended for recycling are in place for more than three months, and garbage is in place for more than three days. These standards are also applicable to composting or storing of garbage and sludge in piles, and to tire piles where more than eight hundred tires are stored at one facility.

(b) Other solid wastes stored or treated in piles prior to waste recycling including compost piles of vegetative waste, piles of woodwaste used for fuel or raw materials are subject to WAC 173-304-300.

(c) Waste piles stored in fully enclosed buildings are not subject to these standards, provided that no liquids or sludges with free liquids are added to the pile.

(d) Inert wastes and demolition wastes are not subject to these standards.

(2) Requirements. All owners and operators shall:

(a) Comply with the requirements of the General facility requirements, WAC 173-304-405;

(b) Design piles located in a one hundred year flood plain to:

(i) Comply with local flood plain management ordinances and chapter 508-60 WAC, Administration of flood control zones; and

(ii) To avoid washout or restriction of flow; and

(c) Remove all solid wastes from the pile at closure to another permitted facility.

(3) Requirements for putrescible wastes or wastes likely to produce leachate.

(a) Waste piles shall be placed upon a surface such as sealed concrete, asphalt, clay or an artificial liner underlying the pile, to prevent subsurface soil and potential ground water contamination and to allow collection of run-off and leachate. The liner shall be designed of sufficient thickness and strength to withstand stresses imposed by pile handling vehicles and the pile itself;

(b) Run-off systems shall be installed, designed and maintained to handle a twenty-four hour, twenty-five year storm event;

(c) Waste piles having a capacity of greater than ten thousand cubic yards shall have either:

(i) A ground water monitoring system that complies with WAC 173-304-490; or

(ii) A leachate detection, collection and treatment system.

For purposes of this subsection, capacity refers to the total capacity of all putrescible or leachate-generating piles at one facility (i.e., two, five thousand cubic yard piles will subject the facility to the requirements of this subsection).

(d) Run-on prevention systems shall be designed and maintained to handle the maximum flow from a twenty-five year storm event; and

(e) A jurisdictional health department may require that the entire base or liner shall be inspected for wear and integrity and repaired or replaced by removing stored wastes or otherwise providing inspection access to the base or liner; the request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading the jurisdictional health department to request such an inspection, repair or replacement.

(4) Requirements for tire piles. Owners or operators shall:

(a) Control access to the tire pile by fencing;

(b) Limit the tire pile to a maximum of one-half acre in size;

(c) Limit the height of the tire pile to twenty feet;

(d) Provide for a thirty foot fire lane between tire piles; and

(e) Provide on-site fire control equipment.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-420, filed 10/28/85.]

WAC 173-304-430 Surface impoundment standards. (1) Applicability.

(a) These standards are applicable to solid wastes that are liquids or sludges containing free liquids as defined in WAC 173-304-100 and applicable under WAC 173-304-015(2) and are stored or treated in surface impoundments;

(b) These standards are also applicable to sludges and septage stored or treated in surface impoundments; and

(c) These standards are not applicable to:

(i) Surface impoundments whose facilities and discharges are otherwise regulated under federal, state, or local water pollution permits; and

(ii) Retention or detention basins used to collect and store stormwater runoff.

(2) Requirements. All surface impoundments must be designed, constructed, and operated so as to:

(a) Meet the performance standards of WAC 173-304-460(2);

(b) Have an inplace or imported soil liner of at least two feet of 1×10^{-7} cm/sec permeability or an equivalent combination of any thickness greater than two feet and a greater permeability to protect the underlying aquifers or a thirty mil reinforced artificial liner placed on top of a structurally stable foundation to support the liners and solid waste and to prevent settlement that would destroy the liner; natural soils shall be recompacted to achieve an equivalent permeability. Owners or operators shall be allowed to use alternative designs, operating practices and locational characteristics which prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(c) Avoid washout including the use of an extended liner or dikes or restriction of flow in the one hundred year floodplain and to comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones;

(d) Have dikes designed with slopes so as to maintain the structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action;

(e) Have the freeboard equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation;

(f) Have either a ground water monitoring system, or a leachate detection, collection and treatment system, for surface impoundments having a capacity of more than two million gallons unless the jurisdictional health department and the department require either for smaller surface impoundments. For purposes of this subsection, capacity refers to the total capacity of all surface impoundments on-site (i.e., two, one million gallon surface impoundments on one site will trigger these monitoring requirements);

(g) Be closed in a manner which removes all solid wastes including liners, etc. to another permitted facility and the site returned to its original or acceptable topography except that surface impoundments closed with the waste remaining in place shall meet the requirements of WAC 173-304-407 and 173-304-130;

(h) A jurisdictional health department may require that the liner be inspected for wear and integrity and repaired or replaced by removing stored solid wastes or otherwise inspecting the liner or base at any time. The request shall be in writing and cite the reasons including valid ground water monitoring or leachate detection data leading to such an inspection and repair;

(i) Surface impoundments containing septage will also be subject to the department's "criteria for sewage works design" used to review plans for septage surface impoundments; and

(j) Surface impoundments that have the potential to impound more than ten acre-feet of waste measured from the top of the dike and which would be released by

a failure of the containment dike shall be reviewed and approved by the dam safety section of the department.

[Statutory Authority: RCW 70.95.215, 88-20-066 (Order 88-28), § 173-304-430, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-430, filed 10/28/85.]

WAC 173-304-440 Energy recovery and incinerator standards. (1) Applicability. These standards apply to all facilities designed to burn more than twelve tons of solid waste per day, except for facilities burning woodwaste or gases recovered at a landfill.

(2) Requirements for energy recovery facilities and incinerators.

(a) Incinerators and energy recovery facilities storing putrescible wastes shall be confined to storage compartments specifically designed to store wastes temporarily in piles, surface impoundments, tanks or containers. The storage facilities shall meet the facility standards of WAC 173-304-400. Storage of wastes other than in the specifically designed storage compartments is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required in order to maintain the plant in a sanitary and clean condition;

(b) All residues from energy recovery facilities or incinerator facilities shall be used, handled or disposed of as solid or dangerous wastes according to these standards or the standards of the dangerous waste regulation, chapter 173-303 WAC;

(c) Each owner or operator of an energy recovery facility or incinerator facility shall comply with WAC 173-304-405. The plan of operation shall address alternative storage, and/or disposal plans for all breakdowns that would result in overfilling of the storage facility;

(d) Energy recovery facilities and incinerators must be designed, constructed and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements;

(e) Each owner or operator shall close their energy recovery facility or incinerator by removing all ash, solid wastes and other residues to a permitted facility;

(f) Each owner or operator of an energy recovery facility or incinerator shall be required to provide recycling facilities in a manner equivalent to WAC 173-304-460 (4)(f); and

(g) Owners or operators of energy recovery facilities or incinerators shall not knowingly dispose of, treat, store or otherwise handle dangerous waste unless the requirements of chapter 173-303 WAC are met.

[Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-440, filed 10/28/85.]

WAC 173-304-450 Landspreading disposal standards. (1) Applicability. These standards apply to facilities that engage in landspreading disposal of solid wastes. These standards do not apply to:

(a) Facilities utilizing sludge, woodwaste or other primarily organic sludges according to the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11, specified in WAC 173-304-300 (4) and (5);

(b) Agricultural solid wastes resulting from the operation of a farm including farm animal manure and agricultural residues; and

(c) Inert wastes and demolition wastes.

(2) Owners or operators of landspreading disposal facilities shall meet the minimum functional standards for performance of WAC 173-304-460(2) and the general facilities standards of WAC 173-304-405.

(3) Owners or operators of landspreading disposal facilities shall meet the locational standards of WAC 173-304-130.

(4) Minimum functional standard for design. Owners or operators of landspreading disposal facilities shall design landspreading facilities so as to:

(a) Provide interim waste storage facilities that meet the requirements of WAC 173-304-400 standards (i.e., for piles, surface impoundments, etc.);

(b) Collect and treat all run-off from a twenty-four hour, twenty-five year storm, and divert all run-on for the maximum flow of a maximum twenty-five year storm around the active area;

(c) Avoid standing water anywhere on the active area;

(d) Avoid slopes and other features that will lead to soil and waste erosion, unless contour plowing or other measures are taken to avoid erosion;

(e) Monitor ground water according to WAC 173-304-490; and

(f) Control access to site by fencing or other means and erect signs.

(5) Minimum functional standards for maintenance and operation. Owners or operators of landspreading disposal facilities shall maintain and operate the facilities so as to:

(a) Avoid any landspreading disposal of garbage or medical waste;

(b) Analyze solid wastes according to the requirements spelled out in the *Municipal and Domestic Sludge Utilization Guidelines* WDOE 82-11;

(c) Avoid applying wastes at rates greater than ten times agronomic rates using the proposed cover crop, or depths greater than would allow for discing the soil by tracked vehicles;

(d) Provide discing of soils during the growing season and after each application of waste to maintain aerobic soil conditions, minimize odors and lessen run-off;

(e) Avoid applying waste to any active area having standing water;

(f) Conform to the operating plan and the requirements of WAC 173-304-405;

(g) Avoid food chain crops during the active life of the facility and until demonstrated to be safe, after closure, according to the closure and post-closure plans filed with the plan of operation. Specific approval in writing from the jurisdictional health department is required for any landspreading disposal facility that is used to raise food crops after closure. Any new owner or operator of a closed landspreading disposal facility shall notify the jurisdictional health department within sixty days of the purchase; and

(h) Provide for a written contract between landowners, waste generators, waste haulers and waste operators

requiring compliance with rules as a condition of the contract.

(6) Minimum functional standards for closure.

(a) All owners or operators of landspreading disposal facilities shall close in such a manner as to comply with WAC 173-304-407;

(b) Financial assurance. All owners or operators of landspreading disposal facilities shall have a written estimate, in current dollars, of the cost of closing the facility. The closure cost estimate must equal the cost of closure at the point in the operating life of the facility when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan.

In addition, all facilities shall have a written post-closure estimate, in current dollars, the cost of post-closure monitoring and maintenance during the post-closure period.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-450, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-450, filed 10/28/85.]

WAC 173-304-460 Landfilling standards. (1) Applicability. These standards apply to facilities that dispose of solid waste in landfills except for:

(a) Inert wastes and demolition wastes landfills, that must meet WAC 173-304-461 standards; and

(b) Woodwaste landfills that must meet WAC 173-304-462 standards.

(2) Minimum functional standards for performance.

(a) Ground water. An owner or operator of a landfill shall not contaminate the ground water underlying the landfill, beyond the point of compliance. Contamination and point of compliance are defined in WAC 173-304-100.

(b) Air quality and toxic air emissions.

(i) An owner or operator of a landfill shall not allow explosive gases generated by the facility whose concentration exceeds:

(A) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components);

(B) The lower explosive limit for the gases at the property boundary or beyond; and

(C) One hundred parts per million by volume of hydrocarbons (expressed as methane) in off-site structures.

(ii) An owner or operator of a landfill shall not cause a violation of any ambient air quality standard at the property boundary or emission standard from any emission of landfill gases, combustion or any other emission associated with a landfill.

(c) Surface waters. An owner or operator of a landfill shall not cause a violation of any receiving water quality standard or violate chapter 90.48 RCW from discharges of surface run-off, leachate or any other liquid associated with a landfill.

(3) Minimum functional standards for design.

(a) Minimizing liquids. All owners or operators of landfills shall minimize liquids admitted to active areas of landfills by:

(i) Covering according to WAC 173-304-460 (4)(d);

(ii) Prohibiting the disposal of noncontainerized liquids or sludges containing free liquids in landfills unless approved by the jurisdictional health department;

(iii) Designing the landfill to prevent all the run-off of surface waters and other liquids resulting from a maximum flow of a twenty-five year storm into the active area of the landfill;

(iv) Designing the landfill to collect the run-off of surface waters and other liquids resulting from a twenty-four hour, twenty-five year storm from the active area and the closed portions of a landfill;

(b) Leachate systems. All owners or operators of landfills shall:

(i) Install a leachate collection system sized according to water balance calculations or using other accepted engineering methods either of which shall be approved by the jurisdictional health department;

(ii) Install a leachate collection system so as to prevent no more than two feet of leachate developing at the topographical low point of the active area; and

(iii) Install a leachate treatment, or a pretreatment system if necessary in the case of discharge to a municipal waste water treatment plant, to meet the requirements for permitted discharge under chapter 90.48 RCW and the Federal Clean Water Act (PL 95-217).

(c) Liner designs. All owners or operators of landfills shall use liners of one of the following designs:

(i) Standard design. The liner shall be constructed of at least a four feet thick layer of recompacted clay or other material with a permeability of no more than 1×10^{-7} cm/sec and sloped no less than two percent; or

(ii) Alternative design. The design shall have two liners:

(A) An upper liner of at least fifty mils thickness made of synthetic material; and

(B) A lower liner of at least two feet thickness of recompacted clay or other material with a permeability of no more than 1×10^{-6} cm/sec and sloped no less than two percent; or

(iii) Equivalent design. The design shall use alternative methods, operating practices and locational characteristics which will minimize the migration of solid waste constituents or leachate into the ground or surface water at least as effectively as the liners of (c)(i) and (ii) of this subsection; or

(iv) Arid design. This design will apply to locations having less than twelve inches of precipitation annually, and, in lieu of (c)(i), (ii), and (iii) of this subsection, shall consist of vadose zone moisture monitoring, provided that:

(A) Waste material is no less than ten feet above the seasonal high level of ground water in the uppermost aquifer; and

(B) Any evidence of leachate or waste constituents detected in the vadose zone that violates or could be expected to violate the performance standard of WAC 173-304-460(2) shall cause the owner or operator to:

(I) Take corrective action, and either

(II) Close the facility according to these rules, or

(III) For all future expansions at that facility, meet the liner requirement of (c)(i) or (ii) of this subsection.

(v) Small landfill designs. For a landfill whose design and permit allow a total capacity at closure of two hundred thousand cubic yards or less, the need for a liner and leachate collection system shall be determined on a case-by-case basis by the jurisdictional health department in consultation with the department.

(d) Floodplains. All owners or operators of landfills that are located in a one hundred year floodplain shall:

(i) Comply with local floodplain management ordinances and chapter 508-60 WAC, Administration of flood control zones; and

(ii) Design the landfill so that the landfill entrance or exit roads or practices shall not restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain or result in washout of solid waste, so as to pose a hazard to human life, wildlife, land or water resources.

(e) Closure. All owners and operators shall design landfills so that at closure:

(i) At least two feet of 1×10^{-6} cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts unless the landfill is located in an area having mean annual precipitation of less than twelve inches in which case at least two feet of 1×10^{-5} cm/sec or lower permeability soil or equivalent shall be placed upon the final lifts. Artificial liners may replace soil covers provided that a minimum of fifty mils thickness is used;

(ii) The grade of surface slopes shall not be less than two percent, nor the grade of side slopes more than thirty-three percent; and

(iii) Final cover of at least six inches of topsoil be placed over the soil cover and seeded with grass, other shallow rooted vegetation or other native vegetation.

(f) Gas control.

(i) All owners and operators shall design landfills, having a permitted capacity of greater than ten thousand cubic yards per year, so that methane and other gases are continuously collected, and

(A) Purified for sale;

(B) Flared; or

(C) Utilized for its energy value.

(ii) Collection and handling of landfill gases shall not be required if it can be shown that little or no landfill gases will be produced or that landfill gases will not support combustion; in such cases installation of vents shall be required.

(g) Other requirements. All owners and operators of landfills shall design landfills to:

(i) Be fenced at the property boundary or use other means to impede entry by the public and animals. A lockable gate shall be required at the entry to the landfill;

(ii) Monitor ground water according to WAC 173-304-490 using a design approved by the local jurisdictional health department with the guidance of the department. The jurisdictional health department may also require monitoring of:

(A) Surface waters, including run-off;

(B) Leachate;

(C) Subsurface landfill gas movement and ambient air; and

(D) Noise.

(iii) Weigh all incoming waste on scales for landfills having a permitted capacity of greater than ten thousand cubic yards per year or provide an equivalent method of measuring waste tonnage capable of estimating total annual solid waste tonnage to within plus or minus five percent;

(iv) Provide for employee facilities including shelter, toilets, hand washing facilities and potable drinking water for landfills having the equivalent of three or more full-time employees;

(v) Erect a sign at the site entrance that identifies at least the name of site, if applicable, the hours during which the site is open for public use, unacceptable materials and an emergency telephone number. Other pertinent information may be required by the jurisdictional health department;

(vi) Provide on-site fire protection as determined by the local and state fire control jurisdiction;

(vii) Prevent potential rat and other vectors (such as insects, birds, and burrowing animals) harborages in buildings, facilities, and active areas;

(viii) Provide the unloading area(s) to be as small as possible, consistent with good traffic patterns and safe operation;

(ix) Provide approach and exit roads to be of all-weather construction, with traffic separation and traffic control on-site, and at the site entrance; and

(x) Provide communication between employees working at the landfill and management offices on-site and off-site (such as telephones) to handle emergencies.

(4) Minimum functional standards for maintenance and operation.

(a) Operating plans. All owners or operators of landfills shall maintain and operate the facility so as to conform to the approved plan of operation.

(b) Operating details. All owners or operators of landfills shall operate the facility so as to:

(i) Control road dust;

(ii) Perform no open burning unless permitted by the jurisdictional air pollution control agency or the department under the Washington Clean Air Act, chapter 70-.94 RCW. Garbage shall not be open burned.

(iii) Collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;

(iv) Prohibit scavenging;

(v) Conduct on-site reclamation in an orderly sanitary manner, and in a way that does not interfere with the disposal site operation;

(vi) Insure that at least two landfill personnel are on-site with one person at the active face when the site is open to the public for landfills with a permitted capacity of greater than fifty thousand cubic yards per year;

(vii) Control insects, rodents and other vectors; and

(viii) Insure that reserve operational equipment shall be available to maintain and meet these standards.

(c) Boundary posts. All owners or operators of landfills shall clearly mark the active area boundaries authorized in the permit, with permanent posts or using equivalent method clearly visible for inspection purposes.

(d) Compaction and daily cover. All owners or operators of landfills shall:

(i) Thoroughly compact the solid waste before succeeding layers are added; and

(ii) Cover compacted waste containing garbage fully with at least six inches of compacted cover material after each day of operation. The jurisdictional health department may allow less frequent covering by considering:

- (A) The characteristics of the solid waste;
- (B) The climatic and geologic setting;
- (C) The size of the facility; and
- (D) The potential for nuisance conditions.

(e) Monitoring systems. All owners and operators of landfills shall maintain the monitoring system required in subsection (3)(g)(ii) of this section.

(f) Recycling required.

(i) All owners or operators of landfills at which the general public delivers household solid waste shall provide the opportunity for the general public to recycle cans, bottles, paper and other material for which a market exists and brought to the landfill site:

- (A) During the normal hours of operation;
- (B) In facilities convenient to the public (i.e., near entrance to the gate).

(ii) Owners or operators may demonstrate alternative means to providing an opportunity to the general public to recycle household solid waste.

(g) Disposal of dangerous waste prohibited. Owners or operators of landfills shall not knowingly dispose, treat, store, or otherwise handle dangerous waste unless the requirements of the dangerous waste regulation, chapter 173-303 WAC are met.

(5) Limited purpose landfill standards.

(a) Limited purpose landfills shall meet the following requirements:

(i) The general facility standards of WAC 173-304-405;

(ii) The general closure and post-closure standards of WAC 173-304-407;

(iii) The performance standards of WAC 173-304-460(2);

(iv) The financial assurance standards of WAC 173-304-467 and 173-304-468; and

(v) The ground water monitoring standards of WAC 173-304-490.

(b) In addition, limited purpose landfills must meet all other standards of WAC 173-304-130 and 173-304-460 unless the owner or operator applies for relief from each of these requirements as part of his permit application and includes evidence or reasons why the nature of the waste, the disposal site and other factors can protect the environment and the public health.

[Statutory Authority: RCW 70.95.215, 88-20-066 (Order 88-28), § 173-304-460, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-460, filed 10/28/85.]

WAC 173-304-461 Inert waste and demolition waste landfilling facility requirements. (1) Applicability. These standards apply to facilities that landfill more

than two thousand cubic yards of inert wastes and demolition wastes, as defined in WAC 173-304-100, including facilities that use inert waste and demolition waste as a component of fill. Inert wastes and demolition wastes used as road building materials are excluded from this section. These standards do not apply to asbestos containing waste regulated under the federal 40 CFR Part 61 rules and the dangerous waste regulation, chapter 173-303 WAC.

(2) Inert wastes and demolition waste landfilling facilities shall not be subject to the Locational standards for disposal sites, WAC 173-304-130 except for WAC 173-304-130 (2)(f), slope.

(3) Owners or operators of inert waste and demolition waste landfill shall maintain a record of the weights or volumes and types of waste disposed of at each site.

(4) Owners or operators of inert wastes and demolition landfills shall employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance. Preventative measures include watering of roads and covering.

(5) Timbers, wood and other combustible waste shall be covered as needed during the summer months to avoid a fire hazard.

(6) Owners or operators of inert wastes and demolition landfills shall close the facility by leveling the wastes to the extent practicable and shall fill any voids posing a physical hazard for persons after closure and to maintain an aesthetic appearance. A minimum of one foot of soil cover shall be used to close landfills.

(7) Owners or operators of inert waste and demolition waste landfills shall obtain a permit, as set forth in WAC 173-304-600 from the jurisdictional health department.

(8) Owners or operators of inert wastes and demolition landfills shall meet the requirements of WAC 173-304-405(7), recording with the county auditor.

(9) Owners or operators of inert waste or demolition waste landfills shall not accept any other form of waste except inert waste and demolition waste.

(10) Owners or operators of inert waste and demolition waste landfills shall prevent unauthorized disposal during off-hours by controlling entry (i.e., lockable gate or barrier) when the facility is not being used.

[Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-461, filed 10/28/85.]

WAC 173-304-462 Woodwaste landfilling facility requirements. (1) Applicability. These requirements apply to facilities that landfill more than two thousand cubic yards of woodwaste including facilities that use woodwaste as a component of fill. Woodwaste is defined in WAC 173-304-100. These standards are not applicable to woodwaste landfills on forest lands regulated under the Forest Practices Act, chapter 76.09 RCW.

(2) Minimum functional standards.

(a) Woodwaste landfills are not subject to WAC 173-304-130 standards, Locational standards for disposal sites, except for WAC 173-304-130 (2)(e) surface water locational standards and WAC 173-304-130

(2)(b)(iii) down gradient drinking water supply wells. Woodwastes may be used as a component of fill within a shoreline and associated wetlands only if a demonstrated and proven technology to prevent ground and surface water contamination is used.

(b) Owners or operators of woodwaste landfills shall maintain a record of the weights or volumes of waste disposed of at each facility.

(c) Owners or operators of woodwaste landfills shall not accept any other wastes except woodwaste.

(d) Owners or operators of woodwaste landfills shall prevent run-on from a maximum twenty-five year storm.

(e) All wood waste landfills having a capacity of greater than ten thousand cubic yards at closure shall either:

(i) Have a ground water monitoring system that complies with WAC 173-304-490 and the woodwaste landfill meet the performance standards of WAC 173-304-460(2); or

(ii) Have a leachate collection and treatment system.

(f) Owners or operators of woodwaste landfills shall not deposit woodwaste in lifts to a height of more than ten feet per lift with at least one foot of cover material between lifts to avoid hot spots and fires in the summer and to avoid excessive build-up of leachate in the winter, and shall compact woodwaste as necessary to prevent voids.

(g) Owners or operators of woodwaste landfills shall prevent unauthorized disposal during off-hours by controlling entry (i.e., lockable gate or barrier), when the facility is not being used.

(h) Owners or operators of woodwaste landfills shall close the facility by leveling and compacting the wastes and applying a compacted soil cover of at least two feet thickness.

(i) Owners or operators of woodwaste landfills shall obtain a permit as set forth in WAC 173-304-600 from the jurisdictional health department.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-462, filed 10/28/85.]

WAC 173-304-463 Problem waste landfills. (Reserved)

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-463, filed 10/28/85.]

WAC 173-304-467 Financial assurance for public facilities. (1) Applicability.

(a) These standards apply to all new and expanded landfill disposal facilities, and to existing landfill disposal facilities that have not been closed on or before November 27, 1989. Landfill disposal facilities include:

(i) All solid waste facilities operated as landfills under WAC 173-304-460, including limited purpose landfills under WAC 173-304-460(5);

(ii) Facilities operated as surface impoundments under WAC 173-304-430 that are closed with the waste remaining in place and therefore required to meet the requirements of WAC 173-304-407; and

(iii) Woodwaste landfills operated under WAC 173-304-462;

(b) For the purposes of this section, landfill disposal facilities are divided into the following ownership/use categories:

(i) A privately-owned facility that accepts waste from the general public;

(ii) A publicly-owned facility that accepts waste from the general public.

(c) For the purposes of this section, publicly-owned or operated facilities may set up one account for both closure and post-closure care of each facility.

(2) Cost estimate for closure.

(a) Each owner or operator shall prepare a written closure cost estimate as part of the facility closure plan. The closure cost estimate shall be in current dollars and represent the cost of closing the facility in accordance with the closure requirements in WAC 173-304-407.

(i) The cost estimate shall be based on a reasonable cost estimate for completing design, purchase, construction, and other activities as identified in the facility closure plan as required under WAC 173-304-407;

(ii) The closure plan shall project intervals for withdrawal of closure funds from the closure financial assurance instrument to complete the activities identified in the approved closure plan;

(iii) The closure cost estimate shall not be reduced by allowance for salvage value of equipment, waste, or the resale value of property or land;

(b) Each owner or operator shall prepare a new closure cost estimate in accordance with (a) and (c) of this subsection whenever:

(i) Changes in operating plans or facility design affect the closure plan;

(ii) There is a change in the expected year of closure that affects the closure plan; or

(iii) The jurisdictional health department directs the owner or operator to revise the closure plan or closure cost estimate.

(c) Each owner or operator shall review the closure cost estimate annually thirty days prior to the anniversary date of the first closure cost estimate. The review will examine all factors, including inflation, involved in estimating the closure cost. Any cost changes must be factored into a revised closure cost estimate and submit the revised cost estimate to the jurisdictional health department for review and approval.

(d) During the operating life of the facility, the owner or operator shall make the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and when this estimate has been adjusted in accordance with (c) of this subsection, made available for review.

(3) Financial assurance account for closure. Each owner or operator of an applicable landfill disposal facility shall establish a financial assurance account in an amount that, over the life of the facility, will accumulate funds to be equal to the closure cost estimate prepared in accordance with subsection (2) of this section unless otherwise specified.

(a) Landfill disposal facilities that accept waste from the general public shall choose from the following options or combination of options for accounting for the financial assurance account:

(i) For landfill disposal facilities owned or operated by municipal corporations, the closure and post-closure reserve account shall be handled in one of the following ways:

(A) Cash and investments accumulated and restricted for closure with an equivalent amount of fund balance reserved in the fund accounting for solid waste activity; or

(B) The cash and investments held in a nonexpendable trust fund.

(C) Other approved method.

(ii) Closure trust fund established with an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the local health department. The purpose of the closure trust fund is to receive and manage any funds paid by the owner or operator and to disburse those funds only for closure activities as identified in the approved closure plan.

(b) For private disposal facilities that accept public waste, established closure financial assurance accounts shall not constitute an asset of the facility owner or operator.

(c) During the operating life of the facility, the owner or operator must review the closure cost estimate thirty days before each anniversary of the date on which the first closure cost estimate was prepared. The review shall examine all factors, including inflation, involved in estimating the closure cost estimate. Any changes in costs shall be factored into a revised closure cost estimate. The new estimate shall be submitted to the jurisdictional health department for review and approval.

(d) For disposal facilities of this section, any income in excess of the closure cost estimate accruing to the established closure financial assurance account will be at the owner's discretion as to the use of said funds.

(e) Excess moneys remaining in the closure financial assurance account after the completion of all identified closure activities will be released to the facility owner or operator.

(4) Cost estimate for post-closure.

(a) Each owner or operator shall prepare a written post-closure cost estimate as part of the facility post-closure plan. The post-closure cost estimate shall be in current dollars and represent the total cost of completing post-closure activities for the facility for at least a twenty-year post-closure period in accordance with the post-closure requirements in WAC 173-304-407.

(i) The post-closure cost estimate shall be based on a reasonable cost estimate for completing post-closure monitoring, maintenance, and other activities identified in the approved facility post-closure plan as required under WAC 173-304-407;

(ii) The post-closure plan shall project annual or other intervals for withdrawal of post-closure funds from the post-closure financial assurance instrument to

complete the activities identified in the approved post-closure plan;

(iii) The post-closure cost estimate shall not be reduced by allowance for salvage, value of equipment, waste, or resale value of property or land.

(b) Each owner or operator shall prepare a new post-closure cost estimate for the remainder of the post-closure care twenty-year period in accordance with (a) and (c) of this subsection, whenever:

(i) Change in the post-closure plan increases or decreases the cost of post-closure care; or

(ii) The jurisdictional health department directs the owner or operator to revise the post-closure plan or post-closure cost estimate.

(c) During the operating life of the facility, the owner or operator shall review the post-closure cost estimate thirty days prior to each anniversary of the date on which the first post-closure cost estimate was prepared. The review shall examine all factors, including inflation, involved in estimating the post-closure cost estimate. Any changes in costs must be factored into a revised post-closure cost estimate. The new estimate must be submitted to the jurisdictional health department for approval.

(d) During the operating life of the facility, the owner or operator shall keep the latest post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, available for review.

(5) Financial assurance account for post-closure. Each owner or operator of a landfill disposal facility shall establish a financial assurance account in an amount equal to the post-closure cost estimate prepared in accordance with subsection (4) of this section.

(a) Applicable landfill disposal facilities that accept waste from the general public shall choose from the following options or combinations of options for accounting for the financial assurance account:

(i) For landfill disposal facilities owned or operated by municipal corporations, the post-closure reserve shall be handled in one of the following ways:

(A) Cash and investments accumulated and restricted for post-closure with an equivalent amount of fund balance reserved in the fund accounting for solid waste activity;

(B) Cash and investments held in a nonexpendable trust fund.

(C) Other approved method.

(ii) Post-closure trust fund established with an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the department of ecology. The purpose of the post-closure trust fund is to receive and manage any funds paid by the owner or operator and to disburse those funds only for post-closure activities as identified in the approved post-closure plan.

(b) For disposal facilities as categorized in subsection (1)(b) of this section, established post-closure financial assurance accounts shall not constitute an asset of the facility owner or operator.

(c) For applicable disposal facilities of this section any income accruing to the established post-closure financial assurance account will be at the owner's discretion as to the use of said excess funds.

(d) Excess moneys remaining in the post-closure financial assurance account after the completion of all identified post-closure activities shall be released to the facility owner or operator.

(6) Closure/post-closure financial assurance account establishment and reporting.

(a) Closure and post-closure financial assurance funds shall be generated at each facility by transferring a percentage of the facility user fees to the selected financial assurance instrument at the schedule specified in the closure and post-closure plans, such that adequate closure and post-closure funds will be generated to ensure full implementation of the approved closure and post-closure plans.

(b) Each facility owner or operator must establish a procedure with the financial assurance instruments trustee for notification of nonpayment of funds to be sent to the jurisdictional health department and the department of ecology.

(c) Each owner or operator shall file with the department of ecology an annual audit of the financial assurance accounts established for closure and post-closure activities, and a statement of the percentage of user fees, as applicable, diverted to the financial assurance instruments.

(i) For landfill disposal facilities owned and operated by municipal corporations, the closure reserve account shall be audited according to the audit schedule of the office of state auditor and shall be filed with the department of ecology, including each of the post-closure care years.

(ii) For landfill disposal facilities not owned or operated by municipal corporations:

(A) Annual audits shall be conducted by a certified public accountant licensed in the state of Washington, and shall be filed with the department of ecology no later than March 31 of each year for the previous calendar year, including each of the post-closure care years.

(B) The audit shall also include calculations demonstrating the proportion of closure completed during the preceding year as specified in the closure and post-closure plans.

(d) Existing landfill disposal facilities may submit a written request with their annual audit to the department of ecology requesting a waiver from utilizing user fees to generate the moneys necessary for the closure and/or post-closure financial assurance account.

(i) The waiver request should provide documentation to demonstrate the facility user fees are prohibitively high, and include alternate method(s) for funding the facility's closure and/or post-closure financial assurance account;

(ii) The waiver request review procedure will be according to WAC 173-304-700.

(7) Authorization for financial assurance account fund withdrawal for closure and post-closure activities.

(a) Each owner or operator will withdraw funds from the closure and/or post-closure financial assurance instrument as specified in the approved closure/post-closure plans;

(b) If the withdrawal of funds from the financial assurance instrument exceeds by more than five percent the withdrawal schedule stated in the approved closure and/or post-closure plan, the closure and/or post-closure plan shall be amended.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-467, filed 10/4/88.]

WAC 173-304-468 Financial assurance for private landfill disposal facilities. (1) Applicability.

(a) For the purposes of this regulation private landfill disposal facilities are privately-owned facilities that do not accept waste from the general public and dispose of only their own generated waste.

(b) These standards apply to all new and expanded landfill disposal facilities, and to existing landfill disposal facilities that have not been closed on or before November 27, 1989. Landfill disposal facilities include:

(i) Facilities operated as surface impoundments under WAC 173-304-430 that are closed with waste remaining in place and therefore required to meet the requirements of WAC 173-304-407; and

(ii) Woodwaste landfills operated under WAC 173-304-462.

(2) Cost estimates for closure and post-closure.

(a) Each owner or operator shall prepare separate written closure and post-closure cost estimates as part of the facility closure and post-closure plans. The cost estimates shall be in current dollars and represent the cost of closing or post-closure care of the facility for a period of twenty years in accordance with the closure requirements in WAC 173-304-407.

(i) The cost estimate shall be based on a reasonable cost estimate for completing design, purchase, construction, and other activities as identified in the facility closure or post-closure plan as required under WAC 173-304-407;

(ii) The closure and post-closure plans shall project intervals for withdrawal of funds from the closure or post-closure financial assurance instrument to complete the activities identified in the approved closure or post-closure plan;

(iii) The closure and post-closure cost estimate shall not be reduced by allowance for salvage value of equipment, waste, or the resale value of property or land.

(b) Each owner or operator shall prepare a new closure or post-closure cost estimate in accordance with (a) and (c) of this subsection whenever:

(i) Changes in operating plans or facility design affect the closure or post-closure plans;

(ii) There is a change in the expected year of closure that affects the closure plan; or

(iii) The jurisdictional health department directs the owner or operator to revise the closure or post-closure plan or closure or post-closure cost estimate.

(c) Each owner or operator shall review the closure and post-closure cost estimate thirty days prior to the

anniversary date of the date on which the first closure and post-closure cost estimate was prepared. The review shall examine all factors, including inflation, involved in estimating the closure and post-closure cost. Any cost changes shall be factored into a revised closure or post-closure cost estimate and submit the revised cost estimate to the jurisdictional health department and the department of ecology.

(d) During the operating life of the facility, the owner or operator must keep the latest closure and post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, and when this estimate has been adjusted in accordance with (c) of this subsection, available for review.

(e) The department of ecology will evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation.

(3) Financial assurance mechanism for closure and post-closure. Each owner or operator of an applicable landfill disposal facility shall establish financial assurance mechanisms in an amount equal to the closure cost estimate and post-closure cost estimate prepared in accordance with subsection (2) of this section.

(a) Applicable landfill disposal facilities shall provide one or more of the following financial assurance instruments:

(i) Closure and post-closure trust funds established with an entity which has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the department of ecology. The purpose of the closure and post-closure trust funds is to receive and manage any funds paid by the owner or operator and to disburse those funds only for closure or post-closure activities as identified in the approved closure and post-closure plan;

(ii) Surety bond guaranteeing payment into a closure and post-closure trust fund issued by a surety company listed as acceptable in Circular 570 of the United States Treasury Department or as hereafter amended. The wording of the surety bond(s) must be acceptable to the department. A standby closure and post-closure trust fund must also be established by the permittee. The purpose of the standby closure or post-closure trust fund is to receive any funds that may be paid by the operator or surety company. The bond must guarantee that the permittee will either fund the standby closure or post-closure trust in an amount equal to the penal sum of the bond before the site stops receiving waste. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the notice of cancellation has been received by both the permittee and the local health department. If the permittee has not provided alternate financial assurance acceptable under this section within ninety days of the cancellation notice, the surety must pay the amount of the bond into the standby closure or post-closure trust account;

(iii) Surety bond guaranteeing performance of closure or post-closure issued by a surety company listed as acceptable in Circular 570 of the United States Treasury Department or as hereafter amended. The wording of the surety bond must be acceptable to the department of ecology. A standby closure and post-closure trust fund must also be established by the permittee. The purpose of the standby closure or post-closure trust fund is to receive any funds that may be paid by the surety company. The bond must guarantee that the permittee will perform final closure or post-closure activities. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the notice of cancellation has been received by the permittee and the local health department. If the permittee has not provided alternative financial assurance acceptable under this section within ninety days of the cancellation notice, the surety must pay the amount of the bond into the standby closure or post-closure trust account;

(iv) Closure or post-closure irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The wording of the letter of credit must be acceptable to the department. Standby closure and post-closure trust funds must also be established by the permittee. The purpose of the standby trust funds is to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit must be irrevocable and issued for a period of at least one year unless the issuing institution notifies both the permittee and the local health department at least one hundred twenty days before the current expiration date. If the permittee fails to perform closure and post-closure activities according to the closure or post-closure plan and permit requirements, or if the permittee fails to provide alternate financial assurance acceptable to the department within ninety days after notification that the letter of credit will not be extended, the local health department may draw from the letter of credit;

(v) Closure and post-closure insurance policies issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus lines insurer in one or more states. The working of the certificate of insurance must be acceptable to the department. Each insurance policy must guarantee that the funds will be available to complete those activities identified in the approved closure and post-closure plans. The policy must also guarantee that the insurer will be responsible for paying out funds for activities identified in either the closure or post-closure plan. The policy must provide that the insurance is automatically renewable and that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may not terminate the policy until at least one hundred twenty days after the notice of cancellation has been received by both

the permittee and the local health department. Termination of the policy may not occur and the policy must remain in full force and effect if: The local health department determines the facility has been abandoned; or closure has been ordered by the local health department or a court of competent jurisdiction, or the permittee has been named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C. (Bankruptcy); or the premium due is paid. The permittee is required to maintain the policy in full force and until an alternative financial assurance guarantee is provided or when the permit is terminated.

(vi) Financial test and corporate guarantee for closure and post-closure. A private corporation meeting the financial test may provide a corporate guarantee that closure and post-closure activities will be completed according to the approved closure and post-closure plans and permit requirements. To qualify, a private corporation must meet the criteria of either (a)(vi)(A) or (B) of this subsection:

(A) Financial test. To pass the financial test the permit must have:

(I) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(II) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(B) Alternative financial test. To pass the alternative financial test, the permittee must have:

(I) A current rating of AAA, AA, A, or BBB as issued by *Standard and Poor's* or Aaa, Aa, A, or Bbb as issued by *Moody's*;

(II) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(C) The permittee shall demonstrate that it passes the financial test at the time the closure plan is filed and reconfirm that annually ninety days after the end of the corporation's fiscal year by submitting the following items to the department of ecology:

(I) A letter signed by the permittee's chief financial officer that provides the information necessary to document that the permittee passes the financial test; that guarantees that the funds to finance closure and post-closure activities according to the closure or post-closure

plan and permit requirements are available; that guarantees that the closure and post-closure will be completed according to the closure or post-closure plan and permit requirements; that guarantees that within thirty days after written notification from the jurisdictional health department that the permittee no longer meets the criteria of the financial test the permittee shall provide an alternative form of financial assurance consistent with the requirements of this section; that guarantees that the permittee's chief financial officer will notify the jurisdictional health department within fifteen days any time that the permittee no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C. (Bankruptcy); and that acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee;

(II) A copy of the independent certified public accountant's report on examination of the permittee's financial statements for the latest completed fiscal year;

(III) A special report from the permittee's independent certified public accountant (CPA) stating that the CPA has compared the data which the letter from the permittee's chief financial officer specifies as having been derived from the independently audited year end financial statements for the latest fiscal year with the amounts in such financial statement and that no matters came to the CPA's attention which caused the CPA to believe that the specified data should be adjusted;

(IV) The jurisdictional health department may, based on a reasonable belief that the permittee no longer meets the criteria of the financial test, require reports of the financial condition at any time from the permittee in addition to the annual report. If the jurisdictional health department finds, on the basis of such reports or other information that the permittee no longer meets the criteria of the financial test, the permittee shall provide an alternative form of financial assurance consistent with the requirements of this section, within thirty days after notification by the jurisdictional health department.

(b) For applicable disposal facilities of this section, any income in excess of the cost estimate(s) accruing to the established closure or post-closure financial assurance account will be at the owner's discretion as to the use of said surplus funds.

(c) A permittee may meet the requirements of this section by obtaining a written guarantee from the parent corporation of the permittee. The guarantor must meet one of the financial tests described in (a)(vi)(A) or (B) of this subsection, and must provide the documentation required by (a)(vi)(C) of this subsection. The terms of the guarantee must provide that:

(i) If the permittee fails to perform final closure and, where required, provide post-closure care of a facility covered by the guarantee in accordance with the approved closure and post-closure plans, the guarantor will do so or establish a trust fund as specified in (a)(i) of this subsection in the name of the permittee.

(ii) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail

to the permittee, to the jurisdictional health department and to the department of ecology. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by both the permittee and the department of ecology, as evidenced by the return receipts.

(iii) If the permittee fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the jurisdictional health department or the department of ecology within ninety days after receipt by both the permittee, the jurisdictional health department, and the department of ecology of a notice of cancellation of the guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the permittee.

(4) Closure/post-closure trust fund account establishment and reporting.

(a) Each owner or operator shall file with the local health department an annual audit of the financial assurance accounts established for closure and post-closure activities.

(b) Annual audits shall be conducted by a certified public accountant licensed in the state of Washington, and shall be filed with the department of ecology no later than March 31 of each year for the previous calendar year, including each of the post-closure care years.

(c) The audit shall also include calculations demonstrating the proportion of closure completed during the preceding year as specified in the closure and post-closure plans.

(5) Authorization for financial assurance account fund withdrawal for closure and post-closure activities.

(a) Each owner or operator shall withdraw funds from the closure and/or post-closure financial assurance instrument as specified in the approved closure/post-closure plans;

(b) If the withdrawal of funds from the financial assurance instrument exceeds by more than five percent the withdrawal schedule stated in the approved closure and/or post-closure plan the closure and/or post-closure plan shall be amended.

[Statutory Authority: RCW 70.95.215. 88-20-066 (Order 88-28), § 173-304-468, filed 10/4/88.]

WAC 173-304-470 Other methods of solid waste handling. (1) Applicability. This section applies to other methods of solid waste handling such as a material resource recovery system for municipal waste not specifically identified elsewhere in this regulation, nor excluded from this regulation.

(2) Requirements. Owners and operators of other methods of solid waste handling shall:

(a) Comply with the requirements in WAC 173-304-405;

(b) Obtain a permit under WAC 173-304-600 from the jurisdictional health department, by submitting an application containing information required in WAC 173-304-600 (3)(a), and such other information as may be required by the jurisdictional health department and the department, including:

(i) Preliminary engineering reports and plans and specifications; and

(ii) A closure plan.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-470, filed 10/28/85.]

WAC 173-304-490 Ground water monitoring requirements. (1) Applicability. These requirements apply to owners and operators of landfills, piles, landspreading disposal facilities, and surface impoundments that are required to perform ground water monitoring under WAC 173-304-400.

(2) Ground water monitoring requirements.

(a) The ground water monitoring system must consist of at least one background or upgradient well and three down gradient wells, installed at appropriate locations and depths to yield ground water samples from the upper most aquifer and all hydraulically connected aquifers below the active portion of the facility.

(i) Represent the quality of background water that has not been affected by leakage from the active area; and

(ii) Represent the quality of ground water passing the point of compliance. Additional wells may be required by the jurisdictional health department in complicated hydrogeological settings or to define the extent of contamination detected.

(b) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata and in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of water wells.

(c) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance;

(v) Chain of custody control; and

(vi) Procedures to ensure employee health and safety during well installation and monitoring.

(d) Sample constituents.

(i) All facilities shall test for the following parameters:

(A) Temperature;

(B) Conductivity;

(C) pH;

(D) Chloride;

(E) Nitrate, nitrite, and ammonia as nitrogen;

(F) Sulfate;

(G) Dissolved iron;

(H) Dissolved zinc and manganese;

(I) Chemical oxygen demand;

(J) Total organic carbon; and

(K) Total coliform.

(ii) The jurisdictional health department in consultation with the department may specify additional or fewer constituents depending upon the nature of the waste; and

(iii) Test methods used to detect the parameters of (d)(i) of this subsection shall be EPA Publication Number SW-846, *Test Methods for Evaluating Solid Waste - Physical/Chemical Methods* except for total coliform which shall use the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

(e) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(f) The owner or operator shall use a statistical procedure for determining whether a significant change over background has occurred. The jurisdictional health department will approve such a procedure with the guidance of the department.

(g) The owner or operator must determine ground water quality at each monitoring well at the compliance point at least quarterly during the life of an active area (including the closure period) and the postclosure care period. The owner or operator must express the ground water quality at each monitoring well in a form necessary for the determination of statistically significant increases.

(h) The owner or operator must determine and report the ground water flow rate and direction in the uppermost aquifer at least annually.

(i) If the owner or operator determines that there is a statistically significant increase for parameters or constituents at any monitoring well at the compliance point, the owner or operator must:

(i) Notify the jurisdictional health department of this finding in writing within seven days of receipt of the sampling data. The notification must indicate what parameters or constituents have shown statistically significant increases;

(ii) Immediately resample the ground water in all monitoring wells and determine the concentration of all constituents listed in the definition of contamination in WAC 173-304-100 including additional constituents identified in the permit and whether there is a statistically significant increase such that the ground water performance standard has been exceeded, and notify the jurisdictional health department within fourteen days of receipt of the sampling data.

(j) The jurisdictional health department may require corrective action programs including facility closure if the performance standard of WAC 173-304-460 (2)(a) is exceeded and, in addition, may revoke any permit and require reapplication under WAC 173-304-600.

(3) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum with the approval of the jurisdictional health officer:

(a) Implement a corrective action program that reduces contamination and if possible prevents constituents from exceeding their respective concentration limits at the compliance point by removing the constituents, treating them in place, or other remedial measures;

(b) Begin corrective action according to a written schedule after the ground water performance standard is exceeded;

(c) Terminate corrective action measures once the concentrations of constituents are reduced to levels below the limits under WAC 173-304-460 (2)(a).

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-490, filed 10/28/85.]

WAC 173-304-600 Permit requirements for solid waste facilities. (1) Applicability.

(a) All facilities which are subject to the standards of WAC 173-304-130, 173-304-300, and 173-304-400 are required to obtain permits. Permits are not required for single family residences and single family farms dumping or depositing solid waste resulting from their own activities on to or under the surface of land owned or leased by them when such action does not create a nuisance, violate statutes, ordinances, or regulations, including this regulation.

(b) Permits are not required for corrective actions at solid waste handling facilities performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state and/or federal cleanup order provided that:

(i) The action results in an overall improvement of the environmental impact of the site;

(ii) The action does not require or result in additional waste being delivered to the site or increase the amount of waste or contamination present at the site;

(iii) The facility standards of WAC 173-304-400 are met; and

(iv) The jurisdictional health department is informed of the actions to be taken and is given the opportunity to review and comment upon the proposed corrective action plans.

(c) Effective dates. The effective dates are as follows:

(i) The permit requirements of this section apply to all existing waste handling facilities eighteen months after the effective date of this regulation.

(ii) Between the effective date of this regulation and eighteen months thereafter, existing facilities will operate under the terms and conditions of existing permits valid on the effective date of this regulation. Jurisdictional health departments shall incorporate compliance schedules into valid existing permits; such compliance schedules shall insure that existing facilities meet the effective dates of WAC 173-304-400(3).

(iii) New and expanded waste handling facilities shall meet the requirements of this section on the effective date of this regulation.

(2) Procedures for permits.

(a) Any owner or operator subject to the permit requirements who intends to operate a facility must apply for a permit with the jurisdictional health department. Filing shall not be complete until two copies of the application have been signed by the owner and operator and received by the jurisdictional health department,

and the applicant has filed an environmental checklist required under the State Environmental Policy Act rules, chapter 197-11 WAC.

(b) Applications for a permit must contain the information set forth in subsection (3) of this section.

(c) Once the jurisdictional health department determines that an application for a permit is factually complete, it shall refer one copy to the appropriate regional office of the department for review and comment.

(d) The jurisdictional health department shall investigate every application to determine whether the facilities meet all applicable laws and regulations, conforms with the approved comprehensive solid waste handling plan and complies with all zoning requirements.

(e) The jurisdictional health department may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the county treasury in the account from which the health department's operating expenses are paid.

(f) The department shall report to the jurisdictional health department its findings on each permit application within forty-five days of receipt of a complete application or inform the jurisdictional health department as to the status of the application. Additionally, the department shall recommend for or against the issuance of each permit by the jurisdictional health department.

(g) When the jurisdictional health department has evaluated all pertinent information, it may issue a permit. Every completed solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department or the applicant shall be informed as to the status of the application.

(h) Except for applications specified in subsection (3)(h) of this section every permit issued by a jurisdictional health department shall be on a format prescribed by the department and shall contain specific requirements necessary for the proper operation of the permitted site or facility including the requirement that final engineering plans and specifications be submitted for approval to the jurisdictional health department.

(i) All issued permits must be filed with the department no more than seven days after the date of issuance.

(j) The owner or operator of a facility shall apply for renewal of the facility's permit annually. The jurisdictional health department shall annually:

(i) Review the original application for compliance with these regulations and submit such additional information as spelled out in subsection (4) of this section;

(ii) Review information collected from inspections, complaints, or known changes in the operations;

(iii) Collect the renewal fee;

(iv) Renew the permit; and

(v) File the renewed permit with the department no more than seven days after the date of issuance. The department shall review and may appeal the renewal as set forth in RCW 70.95.185 and 70.95.190.

(3) Application contents for permits for new or expanded facilities.

(a) All permit applications except for inert waste, demolition waste, special purpose landfills, woodwaste landfill and recycling facilities applications, which are specified in (h) of this subsection, shall contain the following:

(i) A general description of the facility;

(ii) The types of waste to be handled at the facility;

(iii) The plan of operation required by WAC 173-304-405(2);

(iv) The form used to record weights or volumes required by WAC 173-304-405(3);

(v) An inspection schedule and inspection log required by WAC 173-304-405(5); and

(vi) Documentation to show that any domestic or industrial waste water treatment facility, such as a leachate treatment system, is being reviewed by the department under chapter 173-240 WAC.

(b) Application contents for permits for new or expanded landfill facilities. In addition to the requirements of (a) of this subsection, each landfill application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses:

(A) Local/regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;

(B) Evaluation of bedrock and soil types and properties;

(C) Depths to ground water and/or aquifer(s);

(D) Direction and flow rate of local ground water;

(E) Direction of regional ground water;

(F) Quantity, location and construction (where available) of private and public wells within a two thousand foot radius of site;

(G) Tabulation of all water rights for ground water and surface water within a two thousand foot radius of the site;

(H) Identification and description of all surface waters within a one-mile radius of the site;

(I) Background ground and surface water quality assessment, and for expanded facilities, identification of impacts of existing facilities of the applicant to date upon ground and surface waters from landfill leachate discharges;

(J) Calculation of a site water balance;

(K) Conceptual design of a ground water and surface water monitoring system, including proposed installation methods for these devices and where applicable a vadose zone monitoring plan;

(L) Land use in the area, including nearby residences; and

(M) Topography of the site and drainage patterns.

(ii) Preliminary engineering report/plans and specifications that address:

(A) How the facility will meet the locational standards of WAC 173-304-130;

(B) Relationship of facility to county solid waste comprehensive plan and the basis for calculating the facility's life;

(C) The design of bottom and side liners;

(D) Identification of borrow sources for daily and final cover, and soil liners;

(E) Interim/final leachate collection, treatment, and disposal;

(F) Landfill gas control and monitoring;

(G) Trench design, fill methods, elevation of final cover and bottom liner, and equipment requirements; and

(H) Closure/post-closure design, construction, maintenance, and land use.

(iii) An operation plan that addresses:

(A) Operation and maintenance of leachate collection, treatment, and disposal systems;

(B) Operation and maintenance of landfill gas control systems;

(C) Monitoring plans for ground water, surface water, and landfill gases to include sampling technique, frequency, handling, and analyses requirements;

(D) Safety and emergency accident/fire plans;

(E) Routine filling, grading, cover, and housekeeping;

(F) Record system to address records on weights (or volumes), number of vehicles and the types of waste received;

(G) Vector control plans; and

(H) Noise control.

(iv) Closure plan to address:

(A) Estimate of closure season/year;

(B) Capacity of site in volume and tonnage;

(C) Maintenance of active fill versus completed, final covered acreage;

(D) Estimated closure construction timing and notification procedures;

(E) Inspection by regulatory agencies.

(v) Post-closure plan to address:

(A) Estimated time period for post-closure activities;

(B) Site monitoring of landfill gas, ground water, and surface water;

(C) Deed clause changes, land use, and zoning restrictions;

(D) Maintenance activities to maintain cover and run-off systems; and

(E) Identification of final closure costs including cost calculations and the funding mechanism.

(c) Application contents for new or expanded transfer stations, drop box facilities, and baling and compaction systems requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain preliminary engineering report/plans and specifications that address:

(i) The proposed facility's zoning status;

(ii) The relationship to the county solid waste comprehensive plan and the area to be served by the facility; and

(iii) The facility design to address how the facility shall meet requirements of WAC 173-304-410, including closure.

(d) Application contents for new or expanded surface impoundments requiring a permit. In addition to the requirements of (a) of this subsection, each applicable application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;

(ii) Preliminary engineering report/plans and specifications that address, where applicable:

(A) How the proposed facility will meet the locational standards of WAC 173-304-130;

(B) The relationship of facility to the county solid waste comprehensive plan;

(C) The design of liners and foundation to be incorporated in the facilities design including the design leachate of collection and treatment systems;

(D) The design of ground water monitoring;

(E) The design of dikes including calculations on dike stability analyses under conditions of liner failure;

(F) Other design details, including sludge cleanout and disposal, overfilling alarms and inlet design; and

(G) Closure/post-closure design, construction maintenance and land use.

(iii) An operation plan that addresses:

(A) Operation and maintenance of leachate collection system, or ground water monitoring;

(B) Operation and maintenance of overfilling equipment or details of filling and emptying techniques;

(C) Inspection of dikes and liners for integrity; and

(D) Safety and emergency plans.

(iv) A closure plan to address:

(A) Estimate of closure year and cost;

(B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;

(C) Closure timing and notification procedures; and

(D) Final inspection by regulatory agencies.

(e) Application contents for new or expanded piles requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:

(i) Preliminary engineering reports/plans and specifications that address:

(A) How the proposed facility will meet the locational standards of WAC 173-304-130;

(B) The relationship of the facility to the county solid waste comprehensive plan and zoning;

(C) The design of the liner or sealed surface upon which the liner rests, including an analysis of the liners ability to withstand the stress;

(D) The design of the run-on and run-off system;

(E) The design to avoid washout when the pile is located in a one hundred year floodplain; and

(F) Maximum elevation and boundaries of the waste pile.

(ii) An operation plan that addresses:

(A) Methods of adding or removing wastes from the pile and equipment used;

(B) Inspection of the liner for integrity; and

(C) Safety and emergency plans.

(iii) A closure plan to address:

(A) Estimate of closure year and cost;

(B) Methods of removing wastes, liners and any contaminated soils, and location of final disposal;

(C) Closure timing and notification procedures; and

(D) Final inspection by regulatory agencies.

(f) Application contents for new or expanded energy recovery and incinerator facilities requiring a permit. In

addition to the requirements of (a) of this subsection, each application for a permit must contain:

(i) Preliminary engineering reports/plans and specifications that address:

(A) The relationship of the facility to the county solid waste comprehensive plan and zoning;

(B) The design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash and any other wastes produced by air or water pollution controls; and

(C) The design of the incinerator or thermal treater, including changing or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.

(ii) An operation plan that addresses:

(A) Cleaning of storage areas as required by WAC 173-304-440 (2)(a);

(B) Alternative storage plans for breakdowns as required in WAC 173-304-440 (2)(c);

(C) Inspection to insure compliance with state and local air pollution laws and to comply with WAC 173-304-405(5). The inspection log or summary must be submitted with the application; and

(D) How and where the fly ash, bottom ash and other solid wastes will be disposed of.

(iii) A closure plan to address:

(A) Estimate of closure year and cost;

(B) Methods of closure and methods of removing wastes, equipment, and location of final disposal;

(C) Closure timing and notification procedures; and

(D) Final inspection by regulatory agencies.

(g) Application contents for new or expanded landspreading disposal facilities requiring a permit. In addition to the requirements of (a) of this subsection, each application for a permit must contain:

(i) A geohydrological assessment of the facility that addresses all of the factors of (b)(i) of this subsection;

(ii) Preliminary engineering reports/plans and specifications that address:

(A) How the proposed facility will meet the locational standards of WAC 173-304-130;

(B) The relationship of the facility to the county solid waste comprehensive plan and the basis for calculating the facility's life;

(C) Waste analyses and methods to periodically sample and analyze solid waste;

(D) Design of interim waste storage facilities if such facilities are not otherwise permitted by the department;

(E) Design of run-on and run-off systems;

(F) A contour map of the active area showing contours to the nearest foot;

(G) A ground water and surface water monitoring program; and

(H) Access barriers such as fences, and warning signs.

(iii) An operation plan that addresses:

(A) Operation and maintenance of run-off and run-on systems;

(B) Methods of taking ground water samples and for maintaining ground water monitoring systems;

(C) Methods of applying wastes to meet the requirements of WAC 173-304-450 (2)(d):

(I) Estimated multiples of agronomic rates;

(II) Frequency of discing; and

(III) Avoidance of standing water.

(D) The written contract required between landowners, waste generators and waste operators.

(iv) Closure plan to address:

(A) Estimate of closure season/year;

(B) Capacity of site in volume and tonnage;

(C) Year-to-year maintenance of the active area versus completed, final covered acreage;

(D) Closure construction timing and notification procedures; and

(E) Final inspection by regulatory agencies.

(v) Post-closure plan to address:

(A) Estimated time period for post-closure activities;

(B) Site monitoring of ground water;

(C) Deed clause changes, land use, and zoning restrictions;

(D) Maintenance activities to maintain cover and run-off systems;

(E) Plans for food chain crops being grown on the active areas, after closure; and

(F) Identification of final closure costs including cost calculations and the funding mechanism.

(h) Application contents for new or expanded inert waste and demolition waste, special purpose landfill, woodwaste landfills, and recycling facilities.

Applications for permits subject to the standards of WAC 173-304-300, 173-304-460(5), 173-304-461, and 173-304-462 shall be on forms whose content shall be specified by the jurisdictional health department.

(4) Application contents for existing facilities renewing permits. All owners or operators of existing facilities shall renew permits or application forms specified in subsection (3) of this section. Previous information submitted to the jurisdictional health department may be referred to on the application forms. Changes in operating methods or other changes must be noted on the application in order to be authorized by permit.

(5) Inspections. As a minimum, annual inspections of all permitted solid waste facilities shall be performed by the jurisdictional health department. Any duly authorized officer, employee, or representative of the jurisdictional health officer or his designee having jurisdiction 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 shall be noted and kept on file. A copy of the inspection report or annual summary shall be furnished to the site operator.

[Statutory Authority: RCW 70.95.215, 88-20-066 (Order 88-28), § 173-304-600, filed 10/4/88. Statutory Authority: Chapter 43.21A RCW, 85-22-013 (Order 85-18), § 173-304-600, filed 10/28/85.]

WAC 173-304-700 Variances. (1) Any person who owns or operates a solid waste facility may apply to the

jurisdictional health officer for a variance from any section of this regulation. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(a) The solid waste handling practices or location do not endanger public health, safety or the environment; and

(b) Compliance with the regulation from which variance is sought would produce hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(3) Any variance or renewal shall be granted within the requirements of subsection (1) of this section and for time period and conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(b) The jurisdictional health department may grant a variance conditioned by a time table if:

(i) Compliance with the regulation will require spreading of costs over a considerable time period; and

(ii) The time table is for a period that is needed to comply with the regulation.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. No renewal thereof shall be granted, unless following a public hearing on the complaint or due notice, the jurisdictional health department finds the renewal is justified. No renewal shall be granted except on application. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the jurisdictional health department shall give public notice of such application in accordance with rules and regulations of the jurisdictional health department.

(5) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(6) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

(7) Variances granted by a jurisdictional health department will be accepted as variances under this regulation.

(8) Public notice shall be given by mailing a notice of the variance application to persons who have written to the jurisdictional health department asking to be notified of all variance requests.

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-700, filed 10/28/85.]

WAC 173-304-9901 Maximum contaminant levels for ground water. Maximum contaminant levels for ground water shall be those specified in chapter 248-54 WAC, as the primary drinking water standards. Analytical methods for these contaminants may be found in the Code of Federal Regulations 40 CFR Part 141. (These contaminant levels are to be considered interim levels for the purpose of regulating solid waste handling facilities and shall be used until such time as the department establishes ground water quality standards for all types of activities impacting ground water.)

[Statutory Authority: Chapter 43.21A RCW. 85-22-013 (Order 85-18), § 173-304-9901, filed 10/28/85.]

Chapter 173-305 WAC

HAZARDOUS WASTE FEE REGULATION

WAC

173-305-010	Purpose.
173-305-015	Applicability.
173-305-020	Definitions.
173-305-030	Generator fees.
173-305-040	Schedule of generator fees.
173-305-050	Coordination with the department of revenue.
173-305-060	Facility fees.
173-305-070	Schedule of facility fees.
173-305-080	Assessments for combined sites.
173-305-090	Adjustment of fees and limits.

WAC 173-305-010 Purpose. This chapter implements the provisions of chapter 70.105A RCW (chapter 65, Laws of 1983 1st ex. sess.), establishing a means for funding hazardous waste control activities in this state. The purpose of this chapter is to describe the methods by which the department of ecology will assess certain fees, to whom the fees will be assessed, the amount of such fees, provisions for exemption from and enforcement of fee assessments, coordination between the departments of ecology and revenue, and procedures for adjusting fees.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-010, filed 2/7/84.]

WAC 173-305-015 Applicability. (1) General. The requirements of WAC 173-305-010 through 173-305-020 and 173-305-080 through 173-305-090 apply to all persons who generate, recycle, transfer, treat, store, or dispose of hazardous wastes in this state.

(2) Generators.

(a) The requirements of WAC 173-305-030 through 173-305-050 apply only to those persons utilizing or operating identified sites.

(b) The requirements of WAC 173-305-030 through 173-305-050 do not apply to:

(i) Any person who is exclusively a small quantity generator (as described in chapter 173-303 WAC) during a calendar year;

(ii) Any person who accepts hazardous waste only from small quantity generators (as described in chapter 173-303 WAC) and who then sends such hazardous waste off-site in accordance with chapter 173-303 WAC, provided that the person does not originate his own hazardous waste; and

(iii) Any hazardous waste generated by a facility which is operating, for such hazardous waste, as a transfer facility under a permit administered pursuant to chapter 173-303 WAC, if such hazardous waste does not originate at the facility and has not been stored at the facility for more than one year.

For the purposes of (b) of this subsection, a person or facility originates a hazardous waste if such hazardous waste occurs as a result of a physical, chemical or biological process performed by the person or at the facility. A hazardous waste is not originated if, when it leaves a site, it is the same as when it arrived.

(3) Facilities. The requirements of WAC 173-305-060 through 173-305-070 apply only to those persons who operate facilities which are subject to a permit administered pursuant to chapter 173-303 WAC.

(4) Exclusions. The requirements of this chapter do not apply to:

(a) Hazardous wastes which are not subject to regulations adopted pursuant to chapter 70.105 RCW;

(b) Radioactive wastes; or

(c) Wastes generated primarily from the combustion of coal or other fossil fuels.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-015, filed 2/7/84.]

WAC 173-305-020 Definitions. Any terms not specifically defined in this section shall, for the purposes of this chapter, have the same meaning as given in WAC 173-303-040. The following terms are defined for the purposes of this chapter:

(1) "Annual gross income" of a business means the value proceeding or accruing during a calendar year by reason of the transaction of the business or service engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(2) "Business activities" means activities of any person subject to the generator fee of WAC 173-305-030 and who is "engaging in business" as this term is defined in chapters 82.04 and 82.16 RCW;

(3) "Combined site" means any location which is both a facility and an identified site (as these terms are defined in this section);

(4) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(5) and shall specifically include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW;

(5) "Department" means the department of ecology;

(6) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(6) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW;

(7) "Facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for recycling, transferring, treating, storing, or disposing of hazardous waste;

(8) "Fee" means the annual hazardous waste control and elimination assessment fee imposed under RCW 70.105A.030 and the fee for treatment, storage, and disposal facilities imposed under RCW 70.105A.040;

(9) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation;

(10) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes;

(11) "Identified site" means the same or geographically contiguous property, which may be divided by a public or private right of way, provided that access between the properties occurs at an intersection and crosses, as opposed to goes along, the right of way. Noncontiguous properties owned by the same person but connected by a right of way will be considered a single identified site if the person controls the right of way and can prevent public access. For the purposes of this chapter, a property (or properties) will be an identified site only if it meets the conditions described above in this subsection, and only if hazardous waste is generated there during a calendar year;

(12) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal organization;

(13) "SIC" means standard industrial classification and refers to the four digit numbers assigned to business activities from the federal Office of Management and Budget's "Standard Industrial Classification Manual," revised 1983;

(14) "Ton" means two thousand pounds; and

(15) "Manufacturer," "retailer," "wholesaler," and "person engaging in service activities" shall have the meanings attributed to such terms in chapter 82.04 RCW and shall include all persons taxable for such activities under that chapter.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-020, filed 2/7/84.]

WAC 173-305-030 Generator fees. This section describes the methods and criteria by which the department will: Determine the business activities that will be assessed generator fees (subsection (1) of this section);

determine and apportion annual gross income (subsection (2) of this section); develop the generator fee schedule (subsection (3) of this section); assess fees (subsection (4) of this section); and provide for exemption from or reduction of a fee (subsection (5) of this section).

(1) Selection of businesses and generators. This subsection describes how the department will select those individuals and businesses who will be assessed a generator fee.

(a) List of business activities. The legislature provided the following list of business activities which may be assessed a generator fee:

- (i) Exploring for, extracting, beneficiating, processing, or selling metallic or nonmetallic minerals;
- (ii) Exploring for, extracting, processing, or selling coal;
- (iii) Producing, distributing, or selling electricity;
- (iv) Industrial or nonresidential contracting or heavy construction;
- (v) Painting or sandblasting;
- (vi) Producing, processing, or selling rubber or plastics;
- (vii) Producing, processing, or selling glass, cement, or concrete;
- (viii) Cutting, milling, producing, preparing, or selling lumber or wood products, including wooden furniture or fixtures;
- (ix) Producing, preparing, or selling paper or allied products;
- (x) Printing or publishing;
- (xi) Synthesizing, producing, processing, preparing, or selling chemicals or allied products;
- (xii) Exploring for, extracting, producing, processing, distributing, or selling petroleum or gas;
- (xiii) Fabricating rubber or plastic products;
- (xiv) Beneficiating, processing, or selling primary or secondary metals;
- (xv) Fabricating metal products, including metal furniture or fixtures;
- (xvi) Fabricating, constructing, preparing, installing, or selling machinery or supplies;
- (xvii) Fabricating, constructing, installing, preparing, or selling electrical or electronic equipment, machinery, or supplies;
- (xviii) Fabricating, producing, preparing, or selling transportation equipment;
- (xix) Transporting by railroad, motor vehicle, or water vessel;
- (xx) Telephone communication;
- (xxi) Drycleaning, photofinishing, or furniture refinishing;
- (xxii) Transferring, treating, storing, or disposing of solid, dangerous, or extremely hazardous wastes; and
- (xxiii) Repairing or servicing motor vehicles, railroad equipment, or water vessels.

(b) Selecting businesses for assessment. The department will select businesses for assessing fees as described in this subsection. In general, two different mechanisms will be used to identify those persons who will be assessed a fee. For the purposes of this chapter, the groups

selected by these two mechanisms will be named: Specific businesses (procedures for selection are described in (b)(i) of this subsection); and nonspecific businesses (procedures for selection are described in (b)(ii) of this subsection).

(i) Specific businesses. Any person who has notified pursuant to chapter 173-303 WAC as a generator of hazardous wastes and who utilizes or operates an identified site will be assessed a generator fee.

(ii) Nonspecific businesses. The department will develop a list of businesses by standard industrial classification (SIC) numbers. This list appears in WAC 173-305-040 and will be developed on the following bases:

(A) The businesses are included in the legislative list of subsection (1)(a) of this section; and

(B) The information on specific businesses that have notified and reported as hazardous waste generators supports the inclusion of SIC numbers on the list.

The department of revenue will provide the names and addresses of businesses which conduct activities specified in the SIC list as requested by the department of ecology. The department of ecology will notify these businesses in writing that they have been identified as possible generators of hazardous waste. They will be requested to submit to the department of ecology within thirty days either a written description of their wastes (including but not limited to type, source and quantity for each waste), or else a signed and dated certification that they do not generate hazardous waste. The certification will be as follows:

"I certify that I am familiar with the requirements of chapter 173-303 WAC, Dangerous waste regulations, and with the waste designation procedures thereof, and that I do not believe any of my wastes to be hazardous wastes based on my own knowledge and on my inquiry of those individuals responsible for performing such hazardous waste designation procedures."

The department of ecology will use the information submitted by the nonspecific businesses, and any other pertinent information, to determine which of those businesses are subject to a generator fee. If a person certifies that his business does not generate hazardous waste, then he will not be assessed a fee. If a person submits information which shows that he generates a hazardous waste, then he will be assessed a generator fee calculated according to the procedures for specific businesses, with the information he has submitted being used in lieu of an annual report. If a person does not submit either a certification or information on his wastes, then the department of ecology will conclude that he is utilizing or operating an identified site and he will be assessed a generator fee calculated according to the procedures for nonspecific businesses.

(c) Identified sites. For the purposes of this chapter, no property will be an identified site unless hazardous waste is generated there during a calendar year. Each identified site will be assessed one fee annually, the size

of the fee to depend on the risk and quantity of the hazardous wastes generated there and the apportioned annual gross income of the site (see subsections (2) and (3) of this section). If one person utilizes or operates more than one identified site, he will be responsible for all fees assessed to his identified sites. To a reasonable extent, the department will attempt to determine all identified sites owned or operated by the same person. However, the department's inability to detect all identified sites owned or operated by the same person will not delay the issuance of assessments, nor will it form a just cause for refusal to pay an assessed fee.

(2) Annual gross income (AGI); apportionment.

(a) Annual gross income. AGI for each person's assessed business will be obtained from the department of revenue. The AGI obtained from the department of revenue for persons whose business activities earn income without as well as within the state will reflect the portion of total AGI attributable to activities within the state. Such attribution will be calculated pursuant to chapters 82.04 and 82.16 RCW. AGI reported to the department of ecology shall be used solely for the purpose of determining fee amounts. Confidentiality of AGI shall be maintained in accordance with department of revenue laws, regulations, and procedures.

(b) Apportionment. Except as otherwise provided in (b)(ii) and (iii) of this subsection, the department shall apportion AGI for specific businesses among identified sites utilized or operated by an assessed person as described in (b)(i) of this subsection. In the case of non-specific businesses, the person's AGI will be apportioned as if he had only one identified site, except as provided in subsection (5) of this section. Whenever an apportioned AGI is calculated to a fraction of a cent, the figure will be rounded to the nearest whole cent (e.g., \$27,611.5235 would be rounded to \$27,611.52).

(i) The department will apportion AGI equally among a person's identified sites without regard to the amount or nature of business at the sites. This will be done by dividing the total AGI for the assessed person by the number of his identified sites. For example:

(A) AGI reported for a person's business is \$7,252,320.18. The person utilizes four identified sites to conduct his activities. Thus, the apportioned AGI for each identified site would be \$1,813,080.05;

(B) AGI reported for a person's business is \$58,112.45. His business is conducted at two locations, but only one is an identified site. Therefore, the apportioned AGI for his identified site would be \$58,112.45.

(ii) Any person who is subject to a fee may request, through the procedure described in subsection (5) of this section, that the department reapportion AGI among his identified sites according to each identified site's share of AGI. His total AGI will still be apportioned only among his identified sites. The share of his total AGI reapportioned to an identified site will be determined by multiplying his total AGI by a factor derived from dividing the AGI contributed from the identified site to the total AGI by the AGI contributed from all of his identified sites. The following formula will be used:

$$\text{AGI(R)} = \text{AGI} \times \frac{\text{AGI(IS)}}{\text{AGI (TIS)}}$$

Where

AGI(R)	=	The share of AGI that will be reapportioned to an identified site
AGI	=	Total AGI attributable to the person's business in the state
AGI(IS)	=	The AGI contributed by the identified site to the total AGI
AGI(TIS)	=	The sum of the AGI contributed by all of the person's identified sites

The following example shows how this reapportionment will work.

A generator's AGI for a calendar year is \$35,254,378.12. During that calendar year, he operates three identified sites at which hazardous wastes are generated. For this example, these sites will be identified as SA, SB, and SC. Site SA contributes \$5,464,212.04 to the generator's total AGI, site SB contributes \$2,372,011.09, site SC contributes \$675,283.87, and the balance of his AGI comes from other properties which are not identified sites. The sum of the AGI contributed by his three identified sites, AGI(TIS), is \$8,511,507.00. The share of the generator's AGI that will be reapportioned to site SA is calculated as $(\$35,254,378.12) \times (\$5,464,212.04 \div \$8,511,507.00) = \$22,632,584.03$. For site SB the reapportionment is calculated as $(\$35,254,378.12) \times (\$2,372,011.09 \div \$8,511,507.00) = \$9,824,790.82$. For site SC, the reapportionment is calculated as $(\$35,254,378.12) \times (\$675,283.87 \div \$8,511,507.00) = \$2,797,003.27$. Thus, site SA would be in the greater than \$10,000,000 AGI category, and sites SB and SC would be in the \$1,000,000 to \$10,000,000 AGI category.

The department will review a generator's request for reapportionment submitted under subsection (5) of this section, and based on information provided by the person requesting reapportionment, will determine the extent and amount of AGI to be reapportioned among his identified sites. The department will not grant reapportionment until all information reasonably necessary to do so has been provided to the department. The information which a person requesting reapportionment must provide will be specified by the department in writing to the person after the department has received his request.

(iii) The department may, on its own, initiate the reapportionment of an assessed person's AGI according to the share of total AGI contributed by each of his identified sites. To determine his reapportionment, the department will specify in writing to the person the information necessary to perform such reapportionment. The department may, if it chooses, waive payment of a generator fee, or of penalties or both until reapportionment is complete.

(3) Criteria for generator fee amount. This subsection describes the specific risk classes for generators, provisions for modifying risk classes in certain cases, and general parameters for fee amounts. The specific generator fee amounts are established in WAC 173-305-040

and are related to the risk classes and general fee parameters set forth in this subsection.

(a) Generator fee parameters. Except as provided in WAC 173-305-080 and 173-305-090, the generator fee assessed for an identified site during a calendar year will not exceed:

(i) \$150.00 for each identified site with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each identified site with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each identified site with an apportioned annual gross income in excess of ten million dollars.

(b) Generator risk class. Seven generator risk classes are established. The risk classes shall be identified as G1, G2, G3, G4, G5, G6, and G7, and are graduated with G1 representing the lowest risk and G7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities generated at an identified site. The generator risk classes are defined as follows:

(i) G1—less than 1.0 ton of DW in a calendar year;

(ii) G2—less than 0.1 ton of EHW, or 1.0 ton or more but less than 2.0 tons of DW in a calendar year;

(iii) G3—0.1 ton or more but less than 0.2 ton of EHW, or 2.0 tons or more but less than 3.5 tons of DW in a calendar year;

(iv) G4—0.2 ton or more but less than 0.35 ton of EHW, or 3.5 tons or more but less than 5.5 tons of DW in a calendar year;

(v) G5—0.35 ton or more but less than 0.55 ton of EHW, or 5.5 tons or more but less than 23.5 tons of DW in a calendar year;

(vi) G6—0.55 ton or more but less than 2.35 tons of EHW, or 23.5 tons or more of DW in a calendar year; and

(vii) G7—2.35 tons or more of EHW in a calendar year.

(c) Assigning generator risk class. The department will assign the highest applicable generator risk class to an identified site. For example, if a person generates in a calendar year 150 pounds of EHW (risk class G2) and 20 tons of DW (risk class G5), his identified site will be assigned the generator risk class G5. The department may, on a case-by-case basis, determine that an identified site poses a greater risk than is reflected by the types and annual quantities of hazardous waste generated at the site. The department may make such a determination after considering the nature of the wastes generated, the proximity of the identified site to population centers, potential for release of the hazardous waste to the air, land, or surface or ground water, and the safety of the generating and handling practices at the identified site. If the department makes such a determination, then it will assign a risk class that is one level higher than the risk class that would be assigned solely on the basis of waste types and quantities generated at the identified site. However, no risk class higher than G7

will ever be assigned. For example, an identified site might generate 1.2 tons of EHW, and thus have a generator risk class of G5. However, the department may assign the site a risk class of G6 (one class higher) because the site generates nerve gas wastes and is located over a sole source aquifer in the core of a major city. Upon reassigning a generator risk class to an identified site, the department will notify the person who utilizes or operates the site of his site's new risk class. Such notification will be in writing and will be included as part of the generator fee statement.

(4) Assessment of generator fees. This subsection describes the procedures for assessing generator fees.

(a) Generator fees will be assessed by the issuance of generator fee statements to persons whose businesses are selected for assessment pursuant to subsection (1) of this section. The department of ecology will provide a list of the businesses to be assessed to the department of revenue. The department of revenue will then prepare and send out the statements of generator fees, and will keep records on who has paid, how much was paid, who is late and, upon notice from the department of ecology, who has been exempted or whose fee has been reduced. If a second generator fee statement is necessary, due to exemption, reduction, reapportionment, etc., the department of ecology will provide the new information to the department of revenue, which will prepare and send out the second statement. A generator fee will be considered paid only after a valid check or money order for the full fee and any accrued interest has been delivered to the department of revenue.

(b)(i) A generator fee will be owed for each calendar year that a person utilizes or operates one or more identified sites. Generator fee statements will be issued by May 31 each year for fees owed for the preceding calendar year. The due date for payment of generator fees is June 30. This due date will be changed for the following reasons:

(A) As provided in subsection (5)(d) of this section, for each person who submits a request for waiver of fee; or

(B) In the event that generator fee statements are not issued by May 31 of a given year, or for fee statements issued pursuant to (b)(ii) of this subsection, the due date will be thirty days after those generator fee statements are issued for that year.

Any person who still owes a generator fee after the applicable due date may be subject to collection and enforcement actions.

(ii)(A) If a generator submits his annual report (pursuant to WAC 173-303-220) to the department and his report is late, then his generator fee statement may be issued after May 31.

(B) The department may discover that a person is a generator, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and has not been assessed a generator fee under this chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a generator fee that is the total of the fees owed for each year, after

December 31, 1982, in which he generated hazardous waste but did not pay a fee.

(c) For generator fees covering hazardous waste generation in calendar year 1983, the fees assessed shall be one-half of the full fees set forth in WAC 173-305-040. For every year thereafter, full generator fees will be assessed.

(d) The statement of generator fee provided by the department of revenue will be a form including, but not limited to, the following information:

(i) The name and address of the person responsible for paying the fee;

(ii) The amount of the generator fee assessed;

(iii) The number and class or classes of identified sites for which a fee is owed and the fee owed for each identified site (if more than one);

(iv) A copy of the fee schedule for generators (from WAC 173-305-040);

(v) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and

(vi) The name, address, and telephone number of a department contact person for responding to questions about the fee.

(5) Exemption from and reduction of fees. This subsection describes who may be exempted from a fee, whose fees may be reduced, and how exemptions or reductions will be granted or denied. To initiate a request for exemption or reduction, the person subject to a fee who wishes to make such a request must complete, sign, date, and submit to the department the form titled request for waiver of fee (available from the department).

(a) The department will grant an exemption from the generator fee to any person for any site for which he has been assessed a fee but which is not an identified site. Before granting an exemption the department may request any information reasonably necessary to determine whether the exemption should be granted including, but not limited to, information on a person's waste streams, types, and quantities. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for exemption, or in penalties for late payment of his fee.

(b) The department will reduce the generator fee for any person who can demonstrate to the department that:

(i) The annual gross income apportioned to his identified sites is incorrect based on the share of each identified site's annual gross income; or

(ii) The fee assessed for his hazardous wastes is too high based on the criteria described in subsection (3) of this section; or

(iii) The person generates hazardous waste only once a year, or less frequently, as described in WAC 173-305-040 (1)(b).

Before granting a reduction, the department may request any information reasonably necessary to determine whether or how much reduction is appropriate including,

but not limited to: The share of each identified site's annual gross income; or, for adjustment based on the criteria, information on hazardous waste types, quantities, and generation rates. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for reduction, or in penalties for late payment of his fee.

(c) A request for waiver of fee must be submitted to the department by June 30 of the year in which a fee was assessed for the preceding calendar year. Failure to submit a request on time may result in collection and enforcement proceedings for failure to pay or late payment of a fee.

(d)(i) Upon receiving a completed, signed, and dated request for waiver of fee from a person, the department of ecology will temporarily waive the person's fee and will notify the department of revenue to delay collection or enforcement proceedings until the person's request has been processed. Except as provided in (e) of this subsection, no person who submits a timely request for waiver of fee shall be subject to any collection or enforcement actions while the department of ecology is making a final decision on that person's request. The department of ecology shall notify the person and the department of revenue regarding a final decision on exemption, reduction, and/or new due date (if any).

(ii) Any person who is ultimately exempted from payment of the generator fee will not be subject to any collection or enforcement actions.

(iii) If a person's generator fee is ultimately reduced but still owing, the final due date for payment of the fee will be either June 30 of the calendar year in which the fee was assessed, or thirty days after the department's final decision, whichever is later.

(e) If the department determines that a person has knowingly submitted false information regarding a request for waiver of fee, then any temporary waiver or payment deadline extension granted to such person will be deemed ineffective. The department may take enforcement actions against such person if his fee is still owed after June 30, regardless of any temporary waiver or deadline extension that the department may initially have granted.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-030, filed 2/7/84.]

WAC 173-305-040 Schedule of generator fees. This section sets forth the amount of the generator fee to be assessed. Subsection (1) of this section, describes the fees for specific businesses based on the criteria established in WAC 173-305-030(3) and annual gross income categories. Subsection (2) of this section, describes the fees for nonspecific businesses based on annual gross income categories.

(1) Schedule of generator fees for specific businesses.

(a) Matrix. The matrix at the end of this subsection sets the amount of the fees for generators in particular risk classes and annual gross income ranges. Based on

the annual gross income and the apportionment of income among identified sites, and on the information obtained in hazardous waste annual reports, persons will be assessed generator fees from the matrix. By finding the risk class in the left column and reading over to the apportioned annual gross income, the department will determine the fee for each identified site. A person owning or controlling more than one identified site will be assessed for the sum of the fees for all of his identified sites.

Specific Business Generator Fee Matrix

Risk Class ²	Apportioned Annual Gross Income ¹		
	\$1,000,000.00 and less	\$ 1,000,000.01 to \$10,000,000.00	More than \$10,000,000.00
G1	\$15.00	\$100.00	\$1,000.00
G2	\$40.00	\$300.00	\$3,000.00
G3	\$65.00	\$500.00	\$5,000.00
G4	\$90.00	\$600.00	\$6,000.00
G5	\$115.00	\$675.00	\$6,750.00
G6	\$140.00	\$725.00	\$7,250.00
G7	\$150.00	\$750.00	\$7,500.00

¹ For procedures for apportioning annual gross income, see WAC 173-305-030(2).

² For procedures for determining risk class, see WAC 173-305-030(3).

(b) Once a year generator fee reduction. Any person whose annual hazardous waste quantity does not exceed either 2.0 tons of dangerous waste (DW) or 0.5 tons of extremely hazardous waste (EHW), and who generates hazardous waste only once a year at an identified site will, for that identified site, owe only one-half of the full generator fee that would have been assessed solely on the basis of waste type and quantity. A person generates hazardous waste only once a year if either: All of the person's hazardous wastes are generated during one month or less of a calendar year; or, in the case of a person who is usually a small quantity generator (as described in chapter 173-303 WAC), the person's hazardous wastes exceed the small quantity generator exclusion only once during a calendar year. To the extent practical, the department will try to make the above determinations when calculating a person's generator fee prior to assessment. Any person assessed a generator fee which does not include the above reduction and who believes that such reduction is applicable, may complete and submit the request for waiver of fee form as described in WAC 173-305-030(5).

(2) Schedule of generator fees for nonspecific businesses.

(a) SIC list. A list of SIC numbers appears at the end of this subsection. Any person whose business activity has an SIC number appearing on this list will be assessed a generator fee if the department has concluded, according to WAC 173-305-030 (1)(b)(ii), that his nonspecific business utilizes or operates an identified site. The amount of the fee is established in (b) of this subsection. Procedures for apportioning annual gross income for nonspecific businesses are described in WAC 173-305-030 (2)(b).

SIC List

1000	2865	3412	3662	4600
1081	2869	3423	3670	4610
1099	2870	3429	3674	4613
1721	2873	3433	3676	4811
2400	2874	3441	3679	4910
2411	2875	3451	3691	4911
2421	2879	3452	3694	4922
2430	2891	3462	3700	4953
2434	2893	3469	3710	4959
2435	2899	3470	3711	5013
2436	2900	3471	3713	5039
2490	2911	3479	3714	5063
2491	2951	3490	3715	5084
2500	2992	3496	3720	5085
2510	2999	3498	3721	5098
2511	3000	3499	3724	5100
2512	3024	3500	3728	5160
2531	3069	3530	3731	5161
2599	3079	3531	3732	5171
2600	3111	3533	3736	5172
2611	3170	3536	3749	5191
2621	3200	3540	3764	5210
2631	3211	3541	3769	5211
2640	3293	3542	3811	5231
2641	3295	3544	3823	5261
2643	3296	3549	3825	5541
2651	3300	3551	3829	5931
2653	3312	3552	3841	5983
2654	3313	3555	3842	7212
2711	3315	3559	3861	7216
2800	3325	3573	3911	7349
2812	3331	3579	3993	7379
2813	3334	3582	3999	7391
3816	3339	3589	4011	7399
2819	3341	3599	4200	7500
2821	3353	3600	4210	7530
2831	3355	3610	4214	7539
2834	3356	3612	4226	7542
2841	3361	3622	4266	7692
2842	3398	3624	4400	7694
2843	3399	3639	4411	7699
2850	3400	3646	4463	8071
2851	3411	3661	4469	8911
				9511
				9621
				9641

(b) Schedule. The generator fees for nonspecific businesses are:

(i) \$150.00 for each person with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each person with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each person with an apportioned annual gross income in excess of ten million dollars.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-040, filed 2/7/84.]

WAC 173-305-050 Coordination with the department of revenue. The departments of ecology and revenue will frequently be transferring information and working together in the collection of generator fees. This section briefly describes some of the key areas in which the two agencies will coordinate. For the sake of clarity, they will be referred to in this section as ecology and revenue.

(1) The primary responsibilities of ecology are to set fees, determine which persons will be assessed, and establish procedures for adjusting assessments.

(2) The primary responsibility of revenue is to collect generator fees (but not facility fees).

(3) Figures on annual gross income for businesses will be obtained from revenue. Ecology will abide by whatever rules revenue may have regarding confidentiality of this information.

(4) Ecology will notify revenue promptly of any changes to generator fees for individuals or groups. Revenue will inform ecology of current amounts collected and placed in the hazardous waste control and elimination account, and of any generator fees that are overdue.

(5) Ecology will calculate any penalties or interest owed on overdue generator fees, will perform any adjustments to the generator fee owed by any individual, and will provide these figures to revenue for use in their collection proceedings.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-050, filed 2/7/84.]

WAC 173-305-060 Facility fees. This section describes the methods by which the department will: Select persons subject to a fee for operating a transfer, treatment, storage, or disposal (TSD) facility (subsection (1) of this section); determine the size of each facility fee based on the types of wastes, TSD activities, waste quantities, risks, etc. (subsection (2) of this section); and, assess the fees for each facility (subsection (3) of this section). The actual schedule of facility fees appears in WAC 173-305-070. Persons who operate a combined site (as defined in WAC 173-305-020) may be subject to two fees, however there is a maximum assessment not to be exceeded for each combined site operated by a person. The procedures for assuring this maximum is not exceeded are described in WAC 173-305-080. For the purposes of WAC 173-305-060 through 173-305-080, the term "operate" means own or control; the term "manage" means, in reference to hazardous waste, transfer, treat, store, or dispose (TSD); and recycling shall be considered a form of treatment.

(1) Selection of facilities. A facility fee will be assessed to any person who operates a facility which is subject to a permit administered pursuant to chapter 173-303 WAC. Any person who operates more than one facility subject to a fee shall be responsible for paying all fees assessed to his facilities.

(2) Criteria for facility fee amount. This subsection describes the specific risk classes for facilities and the general parameters for fee amounts. The specific facility fee amounts are established in WAC 173-305-070 and are related to the risk classes and general fee parameters set forth in this subsection.

(a) Facility fee parameters. Except as provided in WAC 173-305-090, the facility fee assessed for the management of hazardous waste during a calendar year will not exceed \$7,500.00 for a facility.

(b) Facility risk class. Seven facility risk classes are established. The risk classes shall be identified as F1,

F2, F3, F4, F5, F6, and F7, and are graduated with F1 representing the lowest risk and F7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities managed at a facility, and the type(s) of management at the facility. The facility risk classes are defined as follows:

(i) F1—Storage or transfer of less than 140.0 tons of DW, or less than 14.0 tons of EHW in a calendar year;

(ii) F2—Storage or transfer of 140.0 tons or more but less than 340.0 tons of DW, or 14.0 tons or more but less than 34.0 tons of EHW in a calendar year;

(iii) F3—Storage or transfer of 340.0 tons or more but less than 580.0 tons of DW, or 34.0 tons or more but less than 58.0 tons of EHW in a calendar year; or, treatment or incineration of less than 15.0 tons of DW, or less than 1.5 tons of EHW in a calendar year;

(iv) F4—Storage or transfer of 580.0 tons or more of DW, or 58.0 tons or more of EHW in a calendar year; or, treatment or incineration of 15.0 tons or more but less than 30.0 tons of DW, or 1.5 tons or more but less than 3.0 tons of EHW in a calendar year;

(v) F5—Treatment or incineration of 30.0 tons or more but less than 260.0 tons of DW, or 3.0 tons or more but less than 26.0 tons of EHW in a calendar year;

(vi) F6—Treatment or incineration of 260.0 tons or more of DW, or 26.0 tons or more of EHW in a calendar year; or, disposal of less than 10.0 tons of DW in a calendar year;

(vii) F7—Disposal of 10.0 tons or more of DW in a calendar year.

(c) Assigning facility risk class. The department will assign the highest applicable risk class to a facility. For example, if a facility stores 50 tons of DW during a calendar year (Risk Class F1) and treats 2 tons of EHW during the same calendar year (Risk Class F4), then the facility will be assigned the facility Risk Class F4. In addition, the risk class assignable to a storage or treatment facility will be increased to the next highest risk class if fifty percent or more of the facility's hazardous wastes are managed in waste piles or surface impoundments. However, no risk class higher than F7 will ever be assigned. For example, if during a calendar year a facility stores 400 tons of DW in tanks (Risk Class F3) and treats this waste in a surface impoundment (Risk Class F6), then the higher risk class, F6, will be increased by one class. Thus, the facility risk class assigned by the department to the facility would be F7.

(d) Special provision for permit by rule facilities. A facility which is operating under a permit by rule pursuant to WAC 173-303-802 will be assigned a facility risk class as described in (c) of this subsection. However, the fee assessed to a permit by rule facility will be only ten percent of the full fee specified in WAC 173-305-070 for the risk class assigned to the permit by rule facility. For example, if a permit by rule facility treats 20 tons of EHW in tanks during a calendar year, the assigned facility risk class would be F5. However, the fee assessed to this facility would be \$650.00 (10 percent of \$6,500.00, the full fee that would otherwise be assessed

to a Risk Class F5 facility). This provision is only applicable to those facilities which manage hazardous wastes solely under a permit by rule.

(3) Assessment of facility fees. This subsection describes the procedures for assessing facility fees.

(a) Facility fees will be assessed, for each facility subject to a fee, to the person who operates the facility. The department will depend on the information submitted in notifications, permit applications, and annual reports to determine the person responsible for a facility fee. A facility fee will be considered paid only after a valid check or money order for the full fee and any accrued interest and/or penalties has been delivered to the department of revenue.

(b)(i) A facility fee will be owed for each calendar year during which hazardous waste is managed at the facility. The department will provide a statement of facility fee to each person operating a facility by August 1, 1984, for facilities managing hazardous waste in calendar year 1983, and by April 15 of each year thereafter. The dates facility fees are due are September 1, 1984, for facilities managing hazardous waste in calendar year 1983, and May 15 each year thereafter for facilities managing hazardous waste in the preceding calendar year. These due dates will be changed for facility fee statements that are not issued by the applicable deadlines, or for facility fee statements issued pursuant to (b)(ii) of this subsection. The final due date in these cases will be thirty days after the department issues the facility fee statements. Any person who still owes a facility fee after the applicable due date may be subject to collection and enforcement actions.

(ii)(A) If a person submits a facility annual report (pursuant to WAC 173-303-390) to the department and his report is late, then the department may issue his facility fee statement after the applicable deadline.

(B) The department may discover that a person operates a facility, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and has not been assessed a facility fee under chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a facility fee that is the total of the fees owed for each year, after December 31, 1982, in which his facility managed hazardous waste but for which he did not pay a fee.

(c) The statement of facility fee provided by the department will be a form including, but not limited to, the following information:

- (i) The name and address of the assessed facility;
- (ii) The amount of the facility fee assessed;
- (iii) The facility class based on the criteria described in subsection (2) of this section;
- (iv) A copy of the fee schedule for all facilities as shown in WAC 173-305-070;
- (v) For facilities also subject to a generator fee, the calculations made, pursuant to WAC 173-305-080, to assure that the maximum combined fee is not exceeded;
- (vi) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and

(vii) The name, address, and telephone number of a department contact person for responding to questions about the fee.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-060, filed 2/7/84.]

WAC 173-305-070 Schedule of facility fees. The facility risk classes used here refer to the criteria established in WAC 173-305-060(2). The fees are:

- (1) \$750.00 for Risk Class F1 facilities;
- (2) \$1,500.00 for Risk Class F2 facilities;
- (3) \$4,000.00 for Risk Class F3 facilities;
- (4) \$5,000.00 for Risk Class F4 facilities;
- (5) \$6,500.00 for Risk Class F5 facilities;
- (6) \$7,250.00 for Risk Class F6 facilities; and
- (7) \$7,500.00 for Risk Class F7 facilities.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-070, filed 2/7/84.]

WAC 173-305-080 Assessments for combined sites.

(1) **Maximum fee.** Any person who operates a hazardous waste transfer treatment, storage or disposal (TSD) facility which is also an identified site will be subject to both the facility fee and the generator fee. At no time, however, will the sum of both fees exceed \$7,500.00 for a combined site in one year. Any person who operates more than one combined site will be responsible for the sum of the fees assessed to each combined site. The maximum fee (\$7,500.00) applies only to each combined site, and does not apply to the sum of the fees assessed to multiple combined sites operated by one person.

(2) **Assessment.** At the time that the department is calculating the fee for a combined site, it will determine the amount of the generator fee and the amount of the facility fee to be assessed. If the sum of the two fees exceeds \$7,500.00 for the combined site, then the department will recalculate the fees and provide the calculations with either the generator or facility fee statement. When required to recalculate the fees, the department will subtract either the generator or facility fee from \$7,500.00, and the difference will be the facility or generator fee. For example, if the department determines that the generator fee for a particular combined site is \$5,000.00, and that the facility fee is \$5,000.00, then the department will recalculate the generator or facility fee because the sum of the two fees (\$10,000.00) exceeds \$7,500.00. The recalculation would be $\$7,500.00 - \$5,000.00 = \$2,500.00$, thus the generator or facility fee assessed in the statement for the combined site would be \$2,500.00.

(3) **Adjustments; supplemental fees.** If at any time there is a reduction in the generator fee for a combined site (due to the department's granting of an exemption, reduction, or reapportionment under WAC 173-305-030 (5) or (2)(b)(ii) or (iii)) and the facility fee for the combined site has been recalculated in accordance with subsection (2) of this section prior to the generator fee reduction, then the department will adjust the facility fee to reflect the reduced generator fee and, if necessary, issue a supplemental facility fee statement. If a supplemental facility fee statement is issued, the due date for

the supplemental fee will be thirty days after the supplemental statement is issued, whichever is later. An example of when a supplemental facility fee would be issued is as follows. The department determines that a particular combined site owes a generator fee of \$6,000.00 and a facility fee of \$6,500.00. However, because of the limit for combined sites, the department issues a facility fee statement which assesses \$1,500.00 (\$7,500.00 - \$6,000.00 = \$1,500.00). The person who operates the combined site pays the \$1,500.00 facility fee, but he requests reapportionment of his annual gross income to reduce his generator fee. The department ultimately grants his request and his new generator fee is \$600.00, which he then pays. The person who operates the combined site is now liable for payment of the full \$6,500.00 facility fee, because his combined fees do not exceed \$7,500.00 (\$600.00 + \$6,500.00 = \$7,100.00). Therefore, the department issues a supplemental facility fee statement for \$5,000.00 (\$6,500.00 - \$1,500.00 (already paid) = \$5,000.00 (unpaid balance)) which the person who operates the combined site then pays.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-080, filed 2/7/84.]

WAC 173-305-090 Adjustment of fees and limits. The department will adjust, by rule amendment, the fee schedules of WAC 173-305-040 and 173-305-070, and the maximum fee limits of WAC 173-305-030(3), 173-305-060(2), and 173-305-080(1) by increasing or decreasing the amounts set forth therein by five percent on each occasion when the consumer price index of the United States Department of Labor increases or decreases by a five percent increment from the index figure as it existed on January 1, 1983.

[Statutory Authority: Chapter 70.105A RCW. 84-05-012 (Order DE 83-38), § 173-305-090, filed 2/7/84.]

Chapter 173-309 WAC

HAZARDOUS WASTE CLEANUP ACT--LOCAL TOXICS CONTROL ACCOUNT--INTERIM FINANCIAL ASSISTANCE PROGRAM

WAC

173-309-010	Purpose and authority.
173-309-020	Definitions.
173-309-030	Relation to other legislation and administrative rules.
173-309-040	General.
173-309-050	Remedial action grants.
173-309-060	Hazardous waste planning and program grants.
173-309-070	Solid waste planning and program grants.
173-309-080	Solid waste disposal and management facilities--Recycling facility grants.
173-309-090	Solid waste disposal and management facilities--Ground water monitoring grants.

WAC 173-309-010 Purpose and authority. The purpose of this chapter is to set forth eligibility criteria and requirements for the conduct of an interim financial assistance program to provide grants to local government pursuant to RCW 70.105B.220(4). The department shall provide grants to local government for:

- (1) Remedial actions for public or private facilities used primarily for the disposal of municipal solid waste;
- (2) Hazardous waste plans and programs under chapter 70.105 RCW;
- (3) Solid waste plans and programs under RCW 70.95.130 and 70.95.220; and
- (4) Solid waste disposal and management facilities (includes recycling facilities grants and ground water monitoring grants).

This chapter recognizes the burden placed upon ratepayers due to the high costs of cleanups, and solid and hazardous waste management, and consistent with chapter 70.105B RCW, provides financial assistance to mitigate such hardships.

This chapter recognizes the importance of a strong preventive program to alleviate future contamination through proper solid and hazardous waste planning and management. It is designed to provide assistance to local governments in carrying out these vital functions pursuant to the requirements of chapters 70.95, 70.105, and 70.105B RCW.

The interim financial assistance program will provide financial assistance to local governments in the form of grants. This interim program will be in effect October 16, 1987, through June 30, 1989 (from the date of enactment of chapter 70.105B RCW). The department will adopt a final financial assistance program and related rules by July 1, 1989. The final program may include the use of a loan program.

The authority to provide financial assistance to local government is granted under chapter 70.105B RCW.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-010, filed 8/5/88.]

WAC 173-309-020 Definitions. (1) "Collection days" means events such as, but not limited to, one-day projects in which moderate risk wastes are collected at centralized location(s) for subsequent packaging and transport to a permitted treatment storage or disposal facility.

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

(3) "Existing facility" means an owned or leased landfill in operation, or for which construction has begun, on or before the effective date of chapter 173-304 WAC for which the owner or operator has obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss. Physical construction of the facility is to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of chapter 173-304 WAC shall be considered existing facilities.

(4) "Hazard ranking system" means the system for ranking and prioritizing hazardous waste sites to be ranked by the department pursuant to chapter 70.105B RCW.

(5) "Hazardous waste planning and program grants" means grants to assist local governments in activities required by RCW 70.105.220, 70.105.225, 70.105.235 (1)(a), (b), and (c), and 70.105.260, including, but not limited to, collection and disposal of household hazardous waste.

(6) "Household wastes" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas).

(7) "Local governments" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

(8) "Minimum functional standards" means the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling.

(9) "Moderate-risk waste" means:

(a) Any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation; and

(b) Any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(10) "Pilot project" means a moderate-risk hazardous waste management feasibility study developed to provide detailed information for alternative moderate-risk waste management techniques or options.

(11) "Remedial action" means any action or expenditure, consistent with the purposes of chapter 70.105B RCW, to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(12) "Remedial action grants" means grants issued pursuant to this chapter for the purpose of carrying out remedial actions at public or private facilities used primarily for the disposal of municipal solid waste.

(13) "Settlement agreement" means any consent decree entered into pursuant to RCW 70.105B.080 or any consent order or decree with the department in effect October 16, 1987.

(14) "Solid waste disposal or management facility" means (for the purpose of this chapter only) any facility or system owned or operated by local governments for the purpose of controlling, collecting, storing, disposing, recycling, or recovery of solid wastes, including any equipment, structures, or property incidental to such

purposes. This term shall not include the acquisition of equipment to collect residential or commercial garbage.

(15) "Solid waste planning and program grants" means grants to assist local governments in activities required under RCW 70.95.130 and 70.95.220.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-020, filed 8/5/88.]

WAC 173-309-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

(2) The remedial grants shall be used to supplement local government funding to carry out required remedial actions.

(3) Hazardous waste planning and program grants shall be awarded to local government to implement RCW 70.105.220, 70.105.235 (1)(a) and (b), 70.105.235(3), and 70.105B.220 (4)(b). Each local government must complete and submit a hazardous waste plan to the department for approval or disapproval by June 30, 1990, pursuant to RCW 70.105.220(7). Revisions of existing plans must meet local hazardous waste planning guidelines.

(4) Solid waste planning and program grants shall be awarded to implement RCW 70.95.010, 70.95.080, 70.95.090, 70.95.130, 70.95.140, 70.95.150, 70.105B.220 (4)(c), WAC 173-304-130 and 173-304-490. Each solid waste plan must be revised by June 7, 1989, pursuant to RCW 70.95.110 as outlined in the department's *Solid Waste Planning Guidelines*, May 1986 and subsequent addenda.

(5) Recycling facility grants shall be awarded to only those projects fulfilling chapter 173-304 WAC and the state "*Grant Guidelines for Solid Waste Disposal and Management*" or any revisions thereto.

(6) Ground water monitoring grants shall be awarded to implement WAC 173-304-490. Ground water monitoring grants are to meet state "*Grant Guidelines for Solid Waste Disposal and Management*," or any revisions thereto.

(7) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-030, filed 8/5/88.]

WAC 173-309-040 General. (1) Apportionment of funds.

For purposes of implementing the interim financial assistance program, the local toxics account shall be apportioned between the following funding categories as follows:

(a) Remedial actions for public or private facilities used primarily for the disposal of municipal solid waste	\$9,000,000
(b) Hazardous waste plans and programs	2,300,000
(c) Solid waste plans and programs	1,500,000
(d) Solid waste disposal and management facilities	3,200,000

To be dispersed as follows:

- (i) Recycling facility grants 2,200,000
- (ii) Ground water monitoring grants 1,000,000

(2) Adjustment of funds. Based on a periodic internal review of grant applications received, grant obligations, grant fund balances, and revenue projections, the department may reallocate funds by grant category or re-adjust the amount of funds that may be allocated under any and all grant fund categories.

(3) Grant application process. Grant application deadlines and schedules will be announced for each of the funding priority grant programs.

Grant application packages which include grant application deadlines, guidelines, application forms, and detailed information will be provided to all interested parties.

When applications are received by the department, they will be reviewed and scored by a committee consisting of department personnel. Applications need to include all required elements, as outlined in the guidelines, in order to be competitive.

After an application is scored and an award letter is sent out, the department will contact the applicant to negotiate the final details of the scope of work, budget, and any other items of concern.

A grant offer is made by the department to the applicant in the form of a grant contract when all applicant and project eligibility requirements have been met, funds are available, and the formal application has been completed to the mutual satisfaction of the applicant and the department.

A grant award is made when a grant contract offer has been signed by both the applicant and the department. The grant contract becomes effective on the date the program manager of the solid and hazardous waste program of the department signs the contract. This also establishes the beginning date of the project. No costs incurred prior to that date are grant eligible unless specific provision is made in the grant contract for such costs.

(4) Appropriation and allotment of funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.

(5) Administrative practices. All grants under this chapter shall be consistent with the provisions of *Financial Guidelines for Grants Management*, WDOE 80-6, May 1980, reprinted March 1982, or subsequent guidelines adopted thereafter.

(6) The department encourages cooperation and coordination among units of local government and any funds granted under this chapter may be used by any unit of local government through interagency agreements.

[Statutory Authority: RCW 70.105B.220(4), 88-17-009 (Order 88-61), § 173-309-040, filed 8/5/88.]

WAC 173-309-050 Remedial action grants. (1) Applicant eligibility. An applicant for a remedial action grant must be a local government which will use the grant for the purpose of planning and/or carrying out required remedial action at a public or private landfill site used primarily for the disposal of municipal solid waste.

An applicant must also meet one of the following requirements:

(a) Be a party to a consent decree under chapter 70.105B RCW or a consent order under chapter 90.48 RCW requiring remedial action at a landfill site; or

(b) Have been issued an enforcement order under RCW 90.48.120, or 70.105B.120 (1)(c)(ii) or (2), requiring remedial action at a landfill site; or

(c) Have solid waste jurisdiction over a private landfill site for which a potentially liable party has obtained a consent order or has been issued an enforcement order under chapter 90.48 RCW requiring a remedial investigation and feasibility study of the site, provided that the consent order or enforcement order predates the effective date of this regulation.

Sites meeting eligibility requirements shall be deemed, for the purposes of this chapter, to be on the hazard ranking list pending issuance of such a list.

(2) Eligible project costs.

(a) Remedial action grants are for the purpose of assisting local governments to plan and carry out required remedial action at public or private facilities used primarily for the disposal of municipal solid waste.

(b) Costs are grant eligible if their purpose is to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment. This includes any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effect studies conducted in order to determine the risk or potential risk to human health. Costs eligible for grant funding include:

(i) Remedial investigations to define the extent and source of contamination;

(ii) Feasibility studies to develop and evaluate cleanup options;

(iii) Remedial design, including final engineering and preparation of plans and specifications needed to implement remedial action;

(iv) Monitoring;

(v) Methane control;

(vi) Excavating the site to remove or relocate contaminated materials, or removing and cleaning up drums, debris, and other contaminated materials;

(vii) Run-on/run-off water control systems;

(viii) Final cover;

(ix) Ground water treatment and control;

(x) In situ treatment technology;

(xi) Acquisitions of off-site property or property easements only for the purpose of gaining access to a facility requiring remedial action, or for the purpose of installing monitoring wells or other pollution abatement equipment or for other purposes relating to remedial action;

(xii) Fencing where waste disposal has terminated or to limit access to structures built to implement a remedial action;

(xiii) Other remedial action activities as determined by the department on a case-by-case basis.

(3) Retroactive funding. Retroactive funding will be allowed for all eligible work conducted under a signed settlement agreement. Retroactive funding may be allowed for costs incurred since October 16, 1987.

(4) Matching requirements. Up to fifty percent state funding will be available for eligible project costs as defined in subsection (2)(a)(i), (ii), (iii), and (iv) of this section; remedial investigations, feasibility studies, remedial design, and monitoring. Up to twenty-five percent state funding will be available for all other eligible project costs.

(5) Priority for allocation of grant funds. In evaluating applicants for remedial grants the department may consider the listing of the applicant on the hazard ranking list to be prepared by the department, pursuant to RCW 70.105B.030(3) or the ranking of the applicant on the hazard ranking system to be adopted by the department pursuant to RCW 70.105B.070(2).

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-050, filed 8/5/88.]

WAC 173-309-060 Hazardous waste planning and program grants. (1) Applicant eligibility.

(a) Hazardous waste planning grants. Eligible local governments under this section are cities, towns, or counties pursuant to RCW 70.105.010(16).

(b) Pilot projects. The applicant must be a local government as defined in WAC 173-309-020(7).

(c) Collection days. The applicant must be a local government.

(2) Eligible project costs.

(a)(i) Hazardous waste planning grants.

Eligible costs include direct costs for activities and tasks necessary for developing or updating local hazardous waste management plans, if they are consistent with the department's *Planning Guidelines for Local Hazardous Waste Plans*, July 1987, WDOE 87-18.

In-depth planning studies to provide detailed analysis of specific plan elements may be undertaken as a part of an overall planning grant, or separately if it can be demonstrated that the planning requirements are otherwise being met.

(ii) Retroactive funding. Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local hazardous waste plans and are in conformance with *Planning Guidelines for Local Hazardous Waste Plans*, July 1987, WDOE 87-18 and subsequent addenda.

(b) Collection days. Eligible costs include direct costs for all activities and tasks required to plan and carry out hazardous waste collection days for household and/or small quantity generator hazardous waste.

(c) Pilot projects. Eligible costs include direct costs for all activities and tasks for projects that examine the

technical, economic, and/or social feasibility of alternative moderate-risk waste reduction, recycling, or handling methods.

(3) Matching requirements.

(a) Planning grants. Grants will be made for up to seventy-five percent of the total eligible project cost. Based on prior department approval, direct local costs of hazardous household substance pilot projects conducted between June 30, 1985, and June 30, 1988, may be subtracted from the twenty-five percent local share of total project costs.

(b) Collection days. Grants will be made for up to fifty percent of the total eligible project cost, or fifteen thousand dollars per grant, whichever is the lesser amount.

(c) Pilot projects. Grants will be made for up to fifty percent of the total eligible project cost, or fifty thousand dollars per project, whichever is the lesser amount.

(4) Priority for allocation of grant funds.

(a) Planning grants. It is the department's intent that grants be awarded for all local hazardous waste plan development state-wide. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

(b) Collection days. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

The maximum amount for which any one local government can apply, prior to January 1, 1989, is fifteen thousand dollars. No local governments can apply for a second collection day project until January 1, 1989. If the department has not obligated all funds allocated for collection days at that time, the unobligated funds may be used to fund repeat activities.

(c) Pilot projects. Grant applications will be ranked according to the following criteria:

(i) Adequacy of and integration with local hazardous waste plans. The local government must be in the process of developing or have completed a local hazardous waste plan. The pilot project must be identified as a part of the local hazardous waste plan.

(ii) Promotion of hazardous waste priorities. A pilot project must address one or more of the following: Hazardous waste reduction, recycling, or the methods of handling.

(iii) Environmental and public health protection. Special consideration will be given to local governments which have a special need to protect a sensitive resource or existing public health problem.

(iv) Generation of information. The project must result in information useful to the solution of moderate-risk use waste problems.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-060, filed 8/5/88.]

WAC 173-309-070 Solid waste planning and program grants. (1) Applicant eligibility. Eligible local governments under this section are counties and cities pursuant to RCW 70.95.130.

(2) Eligible project costs.

(a) General. Costs for developing or updating local solid waste management plans are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with department's solid waste-planning guidelines and subsequent addenda.

(b) Retroactive. Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local solid waste plans and are in conformance with the state *Solid Waste Planning Guidelines*, May 1986, WDOE 86-4 and subsequent addenda.

(3) Matching requirements. Grants will be made for up to fifty percent of the total eligible project cost.

(4) Allocation of grant funds. It is the department's intent that grants be awarded for developing or updating local solid waste management plans state-wide. Subject to the limits of available funds, those applications that meet eligibility requirements will be approved for funding on a first-come first-served basis.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-070, filed 8/5/88.]

WAC 173-309-080 Solid waste disposal and management facilities—Recycling facility grants. (1) Applicant eligibility. Recycling facilities are eligible provided that:

(a) It is demonstrated that the proposed recycling activity or service is not reasonably available to persons within the locale from private enterprise; and

(b) It is demonstrated that the recycling project is economically feasible and suitable for successful implementation.

(2) Eligible project costs.

(a) General. Costs are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with the department's *Grant Guidelines for Solid Waste Disposal and Management*, May 1988.

(b) Recycling facility. Eligible costs include direct costs for yard and garden waste composting facilities, and other recycling facilities. These costs include:

- (i) Planning and feasibility studies, environmental impact statements, and permitting costs;
- (ii) Preparation of design documents;
- (iii) Facility construction;
- (iv) Purchase of specialized equipment.

(3) Matching requirements. Grants will be made for up to seventy-five percent of the total eligible project cost.

(4) Priority for allocation of grants. Grant applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The project ranking criteria are as follows:

(a) Extent to which the waste stream will be reduced. Priority will be given to those projects emphasizing reduction and recycling of larger components of the waste stream, such as yard and garden waste and mixed scrap paper.

(b) How the project integrates into the current and planned solid waste management system.

(c) How the project will contribute to the solution of an existing solid waste problem.

(d) The probable technical success of the project.

(e) Demonstration that the project scope is compatible with the cost and needs of the project.

(f) Other special situations that exist in the project.

(g) How the project will be operated and maintained.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-080, filed 8/5/88.]

WAC 173-309-090 Solid waste disposal and management facilities—Ground water monitoring grants. (1) Applicant eligibility. The ground water monitoring project must be addressed with a facility maintenance and operation plan, as required by chapter 173-304 WAC.

(2) Eligible project costs.

(a) General. Costs are grant eligible if:

- (i) They are necessary to conduct the project;
- (ii) They are consistent with department's *Grant Guidelines for Solid Waste Disposal and Management*, May 1988.

(b) Ground water monitoring. Eligible costs include direct costs incurred by grantees that are owners and operators of landfills, piles, landspreading disposal facilities, and surface impoundments that are required to perform ground water monitoring pursuant to WAC 173-304-400. Direct costs involved in design and installation of ground water monitoring wells at existing facilities as defined by WAC 173-304-100 (27)(a) and (b), will be eligible for funding.

(3) Matching requirements. Grants will be made for up to fifty percent of the total eligible project costs, not to exceed a maximum of fifty thousand dollars per local government.

(4) Priority for allocation of grants. Grant application will be ranked according to how each application meets the criteria set forth below. Grants will be awarded within the limits of available funds to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The ranking criteria are as follows:

(a) Ability to pay. Priority will be given to local governments in economically distressed areas.

(b) How, or if, the project will contribute directly to the solution of an existing environmental or public health problem.

(5) Retroactive funding will be allowed for all eligible work for costs incurred since October 16, 1987.

[Statutory Authority: RCW 70.105B.220(4). 88-17-009 (Order 88-61), § 173-309-090, filed 8/5/88.]

Chapter 173-310 WAC LITTER RECEPTACLES

WAC

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|-------------|--|
| 173-310-010 | Purpose. |
| 173-310-020 | Definitions. |
| 173-310-030 | Responsibility to procure and place litter receptacle. |

173-310-040	Litter receptacles, where required.
173-310-050	Number of litter receptacles required.
173-310-060	Minimum standards.
173-310-070	Anti-litter symbol.
173-310-080	Prohibited acts.
173-310-090	Penalties.
173-310-100	Effective date and compliance.
173-310-990	Appendix A—Anti-litter symbol.

WAC 173-310-010 Purpose. By the provisions of chapter 70.93 RCW, the department of ecology has been delegated authority to conduct a permanent and continuous program to control and remove litter from this state to the maximum practical extent possible. The purpose of this chapter is to provide minimum standards for litter receptacles and to prescribe the use, placement and distribution of litter receptacles throughout the state, pursuant to the authority set forth in RCW 70.93.040 and 70.93.090.

[Order 72-10, § 173-310-010, filed 5/15/72, effective 9/1/72.]

WAC 173-310-020 Definitions. The following words and phrases as used herein shall have the following meanings, unless context clearly dictates otherwise:

(1) "Anti-litter symbol" means the standard symbol adopted herein by the department.

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

(3) "Litter" means all waste materials including, but not limited to, disposable packages or containers susceptible to being dropped, deposited, discarded or otherwise disposed of upon any property in the state, but not including the wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.

(4) "Litter receptacle" means containers for the disposal of litter of not more than 60-gallon capacity: *Provided*, That special containers of larger capacity such as those referred to as "dumpsters," and garbage containers or other waste containers serving single or multifamily residences are not included within this definition and their use is in no way regulated or affected by this chapter.

(5) "Person" shall mean any industry, public or private corporation, copartnership, association, firm, individual, or other entity whatsoever.

(6) "Public place" means any area that is used or held out for the use of the public whether owned and operated by public or private interests, but not including indoor areas. An indoor area shall be construed to mean any enclosed area covered with a roof and protected from moisture and wind.

[Order 72-10, § 173-310-020, filed 5/15/72, effective 9/1/72.]

WAC 173-310-030 Responsibility to procure and place litter receptacle. It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain such receptacles at their own expense on the premises in accordance with the provisions of this chapter.

[Order 72-10, § 173-310-030, filed 5/15/72, effective 9/1/72.]

WAC 173-310-040 Litter receptacles, where required. Litter receptacles meeting the standards established by this chapter shall be placed in the following public places in the state:

(1) Along public highways lying outside the limits of incorporated cities and towns;

(2) Parks;

(3) Campgrounds;

(4) Trailer park facilities for transient habitation;

(5) Drive-in restaurants;

(6) Gasoline service stations;

(7) Tavern parking lots;

(8) Shopping centers;

(9) Grocery store parking lots;

(10) Marinas;

(11) Boat launching areas;

(12) Boat moorage and fueling stations;

(13) Public and private piers

(14) Beaches and bathing areas;

(15) Outdoor parking lots, other than those specifically designated above, having a capacity of more than 50 automobiles;

(16) Fairgrounds;

(17) Schoolgrounds;

(18) Racetracks;

(19) Sporting event sites with seating capacity for more than 200 spectators;

(20) Sites for carnivals, festivals, circuses, shows or events of any kind to which the public is invited;

(21) Business district sidewalks.

Litter receptacles need be placed in the above public places only during times such places or events held at them are open to the public.

Placement of litter receptacles shall be in conformance with laws, ordinances, resolutions and regulations pertaining to fire, safety, public health or welfare.

[Order 73-7, § 173-310-040, filed 4/23/73; Order 72-10, § 173-310-040, filed 5/15/72, effective 9/1/72.]

WAC 173-310-050 Number of litter receptacles required. The minimum number of receptacles meeting the standards established by this chapter required in public places listed in the preceding section is as follows:

(1) Along public highways lying outside the limits of incorporated cities and towns – one receptacle at each rest area, view point or similar turnout, officially designated as such by the primary jurisdictional authority;

(2) Parks, campgrounds and trailer park facilities for transient habitation – one receptacle at each public restroom facility, and one receptacle at each established trailhead giving access by foot, motorcycle, bicycle or similar trail for excursion or exploration out of or away from the central activity area;

(3) Gasoline service stations – one litter receptacle placed in plain view of each gasoline service island, with a minimum of one receptacle for each side of the station on which gasoline pumps are located.

(4) Drive-in restaurants, tavern parking lots, shopping centers, grocery store parking lots and outdoor parking lots having a capacity of more than 50 automobiles –

one receptacle, plus one additional receptacle for each 200 parking spaces in excess of 50 spaces;

(5) Marinas, boat launching areas, boat moorage and fueling stations and public and private piers – one receptacle at each such area;

(6) Beaches and bathing areas – one receptacle at each public restroom facility, and one receptacle at each access point officially designated as such by the primary jurisdictional authority;

(7) Schoolgrounds – one receptacle at each school-ground bus loading zone officially designated as such by the primary jurisdictional authority;

(8) Racetracks and sporting event sites with seating capacity for more than 200 spectators – one receptacle, plus one additional receptacle for each 1000 seating capacity in excess of 200.

(9) Fairgrounds and sites for carnivals, festivals, circuses, shows or events of any kind to which the public is invited – one receptacle at the entrance to each ride, and one receptacle at each end of walk-through exhibit buildings;

(10) Along the sidewalks of business districts of incorporated cities and towns – one receptacle per 800 feet of sidewalk curbing.

No variance from the provisions of this section shall be allowed except upon the express permission of the department of ecology.

Notwithstanding the minimum requirements of this section, any public place in which litter receptacles meeting the standards of this chapter are required that is found to have an accumulation of uncontained litter under circumstances that the person responsible for placing receptacles could have reasonably anticipated the litter shall be deemed to have an insufficient number of receptacles to be in compliance with this regulation.

[Order DE 76-34, § 173-310-050, filed 9/13/76; Order 73-7, § 173-310-050, filed 4/23/73; Order 72-10, § 173-310-050, filed 5/15/72, effective 9/1/72.]

WAC 173-310-060 Minimum standards. Litter receptacles procured and placed in public places as required by this chapter shall meet the following minimum standards:

(1) General specifications.

(a) The body of each litter receptacle shall be constructed of a minimum of 24-gauge galvanized metal or other material of equivalent strength, that will with normal wear and tear, reasonably resist corrosion and acts of vandalism.

(b) All outside edges of each litter receptacle shall be rounded.

(c) Openings in covered litter receptacles shall be readily identifiable and readily accessible for the deposit of litter.

(d) Construction and general configuration of litter receptacles shall be in conformance with all pertinent laws, ordinances, resolutions or regulations pertaining to fire, safety, public health or welfare.

(2) Color and marking.

(a) The entire outer surface of each litter receptacle shall be colored medium green conforming with Federal

Color Standard No. 595A, Color No. 24424, or Color No. 34424.

(b) Each litter receptacle shall bear the official anti-litter symbol, as adopted herein. The symbol shall be colored deep blue conforming with Federal Color Standard No. 595A, Color No. 15180. The symbol shall not be distorted as to proportion and shall not be incorporated into a commercial advertisement on the receptacle. For litter receptacles along the right-of-way of public highways, the symbol shall be of a size so as to be distinguishable from a minimum distance of 75 feet.

(c) The words "DEPOSIT LITTER" shall be placed on the litter receptacle. Lettering used for these two words shall be block-type capital letters to be readily legible at a distance of 30 feet.

(d) No commercial advertisement shall be placed on any litter receptacle. However, the person owning any receptacle may place a single line on the receptacle identifying his ownership, and a single credit line designating any donor of the litter receptacle other than the owner may also be placed on the receptacle: *Provided*, That the lettering does not exceed the size specified for the words "DEPOSIT LITTER," and does not interfere with or distract from the prominence of the anti-litter symbol.

(3) Maintenance. Compliance with these minimum standards shall include proper upkeep, maintenance and repair of litter receptacles sufficient to permit such receptacles to serve the functions for which they were designed and to prevent the appearance of such receptacles from becoming unsightly. Inadequately maintained or unsightly litter receptacles shall be in violation of these minimum standards.

(4) Wherever litter receptacles are placed in any public place other than where required by this chapter, such receptacles shall conform to the provisions of this chapter.

[Order 72-10, § 173-310-060, filed 5/15/72, effective 9/1/72.]

WAC 173-310-070 Anti-litter symbol. The official state anti-litter symbol shall be the symbol depicted in Appendix A to this chapter conforming to the Federal Color Standard No. 595A, Color No. 15180, which appendix is hereby incorporated into this chapter and made part hereof. Permission to use this symbol in the manner required by this chapter has been obtained from the copyright holder and any other use without the express permission of the copyright holder is prohibited.

[Order 72-10, § 173-310-070, filed 5/15/72, effective 9/1/72.]

WAC 173-310-080 Prohibited acts. (1) No person shall damage, deface, abuse or misuse any litter receptacle not owned by him so as to interfere with its proper function or to detract from its proper appearance.

(2) No person shall deposit leaves, clippings, prunings or gardening refuse in any litter receptacle.

(3) No person shall deposit household garbage in any litter receptacle: *Provided*, That this subsection shall not be construed to mean that wastes of food consumed on the premises at any public place may not be deposited in litter receptacles.

[Order 72-10, § 173-310-080, filed 5/15/72, effective 9/1/72.]

WAC 173-310-090 Penalties. Penalties for violation of this chapter shall be in accordance with chapter 70.93 RCW.

[Order 72-10, § 173-310-090, filed 5/15/72, effective 9/1/72.]

WAC 173-310-100 Effective date and compliance.
(1) This chapter shall become effective on September 1, 1972.

(2) All litter receptacles in any public place designated in this chapter which are placed after the effective date hereof shall conform to the provisions of this chapter.

(3) Litter receptacles in any public place designated in this chapter which were in place prior to the effective date hereof shall be modified to conform with marking requirements of this chapter [WAC 173-310-060 (2)(b)(c)] no later than January 1, 1973.

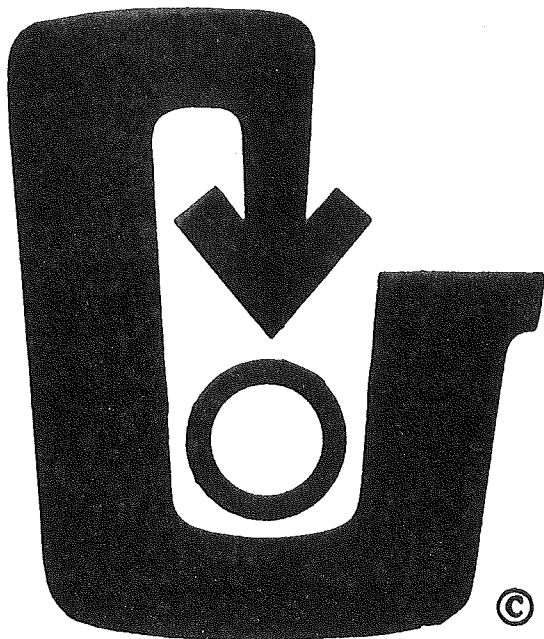
(4) All litter receptacles in any public place designated in this chapter shall be modified or replaced so as to fully conform with all requirements of this chapter no later than July 1, 1975.

[Order 72-10, § 173-310-100, filed 5/15/72, effective 9/1/72.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The bracketed material in the above section does not appear to conform to this rule.

WAC 173-310-990 Appendix A--Anti-litter symbol.

Appendix A



[Order 72-10, Appendix A (codified as WAC 173-310-990), filed 5/15/72, effective 9/1/72.]

(1989 Ed.)

Chapter 173-312 WAC

LOCAL SOLID WASTE ENFORCEMENT GRANT REGULATION

WAC

173-312-010	Introduction.
173-312-020	Purpose and authority.
173-312-030	Applicant eligibility.
173-312-040	Application.
173-312-050	Criteria for allocation of funds.

WAC 173-312-010 Introduction. RCW 70.95.220 provides that any jurisdictional health department may apply to the department of ecology for financial aid for the enforcement of rules and regulations promulgated under chapter 70.95 RCW. RCW 70.95.220 further provides that after receipt of such applications, the department may allocate available funds according to criteria established by regulation. Such criteria shall consider or be based upon population, urban development, the number of disposal sites, and geographical area.

[Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-010, filed 8/4/88.]

WAC 173-312-020 Purpose and authority. The purpose of this regulation is to establish criteria by which the department of ecology shall allocate financial aid, pursuant to chapter 70.105B RCW, to jurisdictional health departments for enforcement of rules and regulations promulgated under chapter 70.95 RCW.

[Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-020, filed 8/4/88.]

WAC 173-312-030 Applicant eligibility. In order to be eligible for grant funding, the local health department must:

(1) Be a "jurisdictional health department" as defined by RCW 70.95.030;

(2) Have a program to achieve the goals of chapter 70.95 RCW;

(3) Have a solid waste ordinance per chapter 70.95 RCW, or be in the process of adoption.

[Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-030, filed 8/4/88.]

WAC 173-312-040 Application. Application for funds shall be made on forms provided by the department and shall include detailed information specified in a guidance document also provided by the department. This detailed information shall include a confirmation of the applicant's eligibility, and a description of the program and budget.

[Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-040, filed 8/4/88.]

WAC 173-312-050 Criteria for allocation of funds. As specified in RCW 70.95.220, first priority will be to provide funds exclusively for solid waste inspection activities, including staff for administration of the local inspection program. The following criteria will be used to assist in the allocation of those funds:

- (1) Protection of public health and environment.
- (2) Cost to residential ratepayers without state assistance.
- (3) Actions required under federal, state and local regulations, and consent decrees.
- (4) Commitment/readiness to proceed.
- (5) Degree of local solid waste problems, as measured by these factors:
 - (a) Number of existing disposal sites, open and closed;
 - (b) Environmental sensitivity of the geographical area;
 - (c) Disposal sites and other waste management facilities, open and closed;
 - (d) Current enforcement actions;
 - (e) Extent of urban development and its relationship to industrial, commercial, and residential development; and
 - (f) Population.

[Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-050, filed 8/4/88.]

Chapter 173-313 WAC LOCAL SOLID WASTE ENFORCEMENT GRANT REGULATION

WAC

173-313-010	Introduction.
173-313-020	Purpose and authority.
173-313-030	Applicant eligibility.
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WAC 173-313-010 Introduction. RCW 70.95.220 provides that any jurisdictional health department may apply to the department of ecology for financial aid for the enforcement of rules and regulations promulgated under chapter 70.95 RCW. RCW 70.95.220 further provides that after receipt of such applications, the department may allocate available funds according to criteria established by regulation. Such criteria shall consider or be based upon population, urban development, the number of disposal sites, and geographical area.

[Statutory Authority: RCW 70.95.220 and 1989 c 2. 89-17-073 (Order 89-12), § 173-313-010, filed 8/17/89, effective 9/17/89.]

WAC 173-313-020 Purpose and authority. The purpose of this regulation is to establish criteria by which the department of ecology shall allocate financial aid, pursuant to the Model Toxics Control Act, to jurisdictional health departments for enforcement of rules and regulations promulgated under chapter 70.95 RCW.

[Statutory Authority: RCW 70.95.220 and 1989 c 2. 89-17-073 (Order 89-12), § 173-313-020, filed 8/17/89, effective 9/17/89.]

WAC 173-313-030 Applicant eligibility. In order to be eligible for grant funding, the local health department must:

- (1) Be a "jurisdictional health department" as defined by RCW 70.95.030;

[Title 173 WAC—p 504]

- (2) Have a program to achieve the goals of chapter 70.95 RCW;
- (3) Have a solid waste ordinance per chapter 70.95 RCW, or be in the process of adoption.

[Statutory Authority: RCW 70.95.220 and 1989 c 2. 89-17-073 (Order 89-12), § 173-313-030, filed 8/17/89, effective 9/17/89.]

WAC 173-313-040 Application. Application for funds shall be made on forms provided by the department and shall include detailed information specified in a guidance document also provided by the department. This detailed information shall include a confirmation of the applicant's eligibility, and a description of the program and budget.

[Statutory Authority: RCW 70.95.220 and 1989 c 2. 89-17-073 (Order 89-12), § 173-313-040, filed 8/17/89, effective 9/17/89.]

WAC 173-313-050 Criteria for allocation of funds. As specified in RCW 70.95.220, first priority will be to provide funds exclusively for solid waste inspection activities, including staff for administration of the local inspection program. The following criteria will be used to assist in the allocation of those funds:

- (1) Protection of public health and environment.
- (2) Cost to residential ratepayers without state assistance.
- (3) Actions required under federal, state and local regulations, and consent decrees.
- (4) Commitment/readiness to proceed.
- (5) Degree of local solid waste problems, as measured by these factors:
 - (a) Number of existing disposal sites, open and closed;
 - (b) Environmental sensitivity of the geographical area;
 - (c) Disposal sites and other waste management facilities, open and closed;
 - (d) Current enforcement actions;
 - (e) Extent of urban development and its relationship to industrial, commercial, and residential development; and
 - (f) Population.

[Statutory Authority: RCW 70.95.220 and 1989 c 2. 89-17-073 (Order 89-12), § 173-313-050, filed 8/17/89, effective 9/17/89.]

Chapter 173-314 WAC WASTE TIRE CARRIER AND STORAGE SITE LICENSES

WAC

173-314-010	Authority and purpose.
173-314-100	Definitions.
173-314-200	Waste tire carrier license.
173-314-210	Enforcement for waste tire carriers.
173-314-220	Storage, disposal, and utilization.
173-314-300	Waste tire storage site license.
173-314-310	Variations.
173-314-320	Enforcement for waste tire storage sites.
173-314-330	Records.
173-314-340	Reports.

WAC 173-314-010 Authority and purpose. By the provision of RCW 70.95.555 and 70.95.263, the department of ecology has been delegated authority to conduct a licensing program for waste tire carriers and storage site owners. The purpose of this chapter is to provide minimum standards for waste tire carriers and site owners that will result in the safe and proper storage, control, recovery, and recycling of tires throughout the state.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-010, filed 1/13/89.]

WAC 173-314-100 Definitions. The following words, terms, and phrases shall, for the purposes of this chapter, have the meanings given below:

(1) "Cab cards" means a license carried in a vehicle that authorizes that vehicle to legally pick up waste tires and haul to a permitted, licensed facility or an exempt facility for deposit.

(2) "Commission" means the Washington utilities and transportation commission.

(3) "County permit" means a permit issued by a local health district that allows for storage of waste tires at a place of business that does not constitute final disposal of the waste tires.

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

(5) "Director" means the director of the department of ecology.

(6) "Disposal site" means the location where any final treatment, utilization, processing, or depository of solid waste occurs.

(7) "Dispose" means to deposit, dump, spill, or place any waste tire onto or under the surface of the ground or into the waters of this state.

(8) "Ecology" means the Washington state department of ecology.

(9) "Financial assurance" means a performance bond, a letter of credit, cash deposit, or insurance policy in favor of the state of Washington.

(10) "Landfill" means a disposal facility or part of a facility at which waste is placed in or on land and which is not a land treatment facility.

(11) "License" means the license issued by the department of licensing and approved by ecology as authorized by RCW 70.95.555 for any person engaged in the business of transporting or storing waste tires.

(12) "Person" means any individual, firm, association, copartnership, political subdivision, government agency, municipality, industry or private corporation, or any other entity whatever.

(13) "Retreader" means a person engaged in the business of recapping tire casings to produce recapped tires for sale to the public.

(14) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

(15) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization,

processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes, or the conversion of the energy in such wastes to more useful forms or combinations thereof.

(16) "State" means the state of Washington.

(17) "Storage" or "storing" means the placing of waste tires at a county permitted facility under conditions established in WAC 173-304-420 and chapter 70.95 RCW.

(18) The terms "motor vehicle," "public highway," "common carrier," "contract carrier," "private carrier," and "garbage and refuse collection companies" shall have the meaning when used herein given to them by section 2, chapter 295, Laws of 1961, and by chapter 105, Laws of 1965 ex. sess.

(19) "Tire" means a continuous solid, semipneumatic, or pneumatic rubber covering encircling the wheel of a vehicle.

(20) "Tire derived products" means any usable materials with a market value produced from the physical processing of tires.

(21) "Tire retailer" means a person in the business of selling new replacement tires.

(22) "Transportation" or "transporting" means picking up or transporting waste tires for the purpose of storage or final disposal.

(23) "Unified business identifier service locations" means:

(a) The field offices of the departments of revenue and labor and industries.

(b) The tax offices of employment security.

(c) The Olympia office of the secretary of state.

(d) The business license service office of the department of licensing.

(24) "Vehicle" means every device capable of being moved under its own power upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(25) "Waste tires" means tires that are no longer suitable for their original intended purpose because of wear, damage, or defect.

(26) "Waste tire carrier" means a person who picks up or transports waste tires for the purpose of storage or disposal. This does not include the following:

(a) Any person transporting five tires or less.

(b) Any person transporting tire-derived products.

(c) Any person transporting used tires back to a retail tire outlet for repair or exchange.

(d) Any person regulated by the utilities and transportation commission.

(e) Solid waste collectors operating under a license or franchise from any local government unit and transporting tires as part of solid waste handling activities.

(f) The United States, the state of Washington, any county, city, town, or municipality in this state, when involved in the clean up of illegal waste tire piles.

(g) Tire retailers associated with retreading facilities who use company-owned vehicles to transport waste tires for the purpose of retreading.

(27) "Waste tire storage site owner" means any person that owns a waste tire facility with a county solid waste permit.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-100, filed 1/13/89.]

WAC 173-314-200 Waste tire carrier license. (1) **Applicability.** All waste tire carriers are required to obtain a waste tire carrier license from the department of licensing.

(2) After April 1, 1989, all waste tire carriers must obtain a waste tire carrier license from the department of licensing. The department of licensing will process and issue licenses as quickly as possible after receiving a completed application.

(3) Application forms for a waste tire carrier license will be available at unified business identifier service locations located throughout the state.

(4) An application for a waste tire carrier license and a cab card for one vehicle shall include a two hundred fifty dollar application fee, fifty dollars of which shall be nonrefundable. Each additional vehicle cab card to be used by the licensee requires an additional fifty dollar fee. The application fee may be refunded following submittal of an application under the following conditions.

(a) Ecology determination that a license is not required.

(b) The applicant withdraws the application before ecology has approved or denied the application.

(5) The application shall include a bond in the sum of ten thousand dollars in favor of the state of Washington, or other financial assurance.

(6) A waste tire carrier license shall be valid for one year from the time of application. Licensees who want to renew their licenses will be notified forty-five days prior to their expiration date in order to maintain a current license.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-200, filed 1/13/89.]

WAC 173-314-210 Enforcement for waste tire carriers. (1) All waste tire carriers shall be subject to penalties as described in RCW 70.95.560 and 9A.20.010(2). Furthermore, any person who transports waste tires without a license is in violation of WAC 173-314-200(2) and RCW 9A.20.020(2).

(2) Any violation of the prescribed waste tire carrier license rules may result in revocation of the license under rules defined by RCW 70.95.560 and 9A.20.020(2) or any other enforcement action provided by law. Each day that a violation occurs is a separate violation and may be the subject of separate penalties.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-210, filed 1/13/89.]

WAC 173-314-220 Storage, disposal, and utilization. After April 1, 1989, all waste tires that are being

[Title 173 WAC—p 506]

transported by a waste tire carrier must be deposited in one of the following locations:

(1) A business that is actively retreading or recycling tires and if required under conditions set forth in WAC 173-304-420 has a county tire storage permit.

(2) Any business that has an outside storage of less than the maximum number of tires allowed in accordance with WAC 173-304-420.

(3) A county permitted waste tire storage facility that has an ecology-approved waste tire storage site owner's license.

(4) A site that has been declared exempt by local health departments and ecology under WAC 173-314-310.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-220, filed 1/13/89.]

WAC 173-314-300 Waste tire storage site license.

(1) **Applicability.** After April 1, 1989, any person in the business of storing waste tires in accordance with WAC 173-304-420 is required to have an ecology-approved waste tire storage site owner's license for that site issued by the department of licensing.

(2) All owners of county permitted waste tire storage sites shall apply to the department of licensing for a waste tire storage site owner's license. Licenses will be issued within ninety days of acceptance of a complete application following review and approval by ecology.

(3) Application forms for a waste tire storage site license will be available from unified business identifier service locations located throughout the state.

(4) Submit an application fee of two hundred fifty dollars. Fifty dollars of the application fee shall be nonrefundable. The remainder of the application fee may be refunded if either of the following conditions exists:

(a) Ecology determines that no license will be required.

(b) The applicant withdraws the application before ecology has approved or denied the application.

(5) The application shall include a performance bond in the sum of ten thousand dollars in favor of the state of Washington, or other financial assurance.

(6) A waste tire storage site license shall be valid for one year from the date of approval. The license holder shall have the option to renew annually. Licensees who want to renew their licenses will be sent a renewal notice forty-five days prior to the expiration date.

(7) In order to obtain a waste tire storage license, the site operator or owner must first satisfy the following requirements:

(a) Obtain a solid waste disposal site permit for the storage of waste tires from the jurisdictional health department of the county in which the site is located.

(b) Satisfy all of the requirements of the minimum functional standards for tire pile storage sites (WAC 173-304-420).

(c) Satisfy other requirements deemed appropriate by ecology.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-300, filed 1/13/89.]

WAC 173-314-310 Variances. (1) Any person who owns or operates a waste tire storage facility may apply to the jurisdictional health officer for a variance from WAC 173-304-420. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(a) The waste tire handling practices or location do not endanger public health, safety, or the environment; and

(b) Compliance with the regulation from which variance is sought would produce hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(3) Any variance or renewal shall be granted within the requirements of subsection (1) of this section and for time periods and conditions consistent with the reasons therefore, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(b) The jurisdictional health department may grant a variance conditioned by a time table if:

(i) Compliance with the regulation will require spreading of costs over a considerable time period; and

(ii) The time table is for a period that is needed to comply with WAC 173-304-420.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. No renewal thereof shall be granted, unless following a public hearing on the complaint or due notice, the jurisdictional health department finds the renewal is justified. No renewal shall be granted except on application. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the jurisdictional health department shall give public notice of such application in accordance with rules and regulations of the jurisdictional health department.

(5) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(6) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of ecology prior to action on the variance by the jurisdictional health department.

(7) Variances granted by a jurisdictional health department will be accepted as variances under this section.

(8) Public notice shall be given by mailing a notice of the variance application to persons who have written to the jurisdictional health department asking to be notified of all variance requests.

[Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-310, filed 1/13/89.]

WAC 173-314-320 Enforcement for waste tire storage sites. Failure to conduct storage of waste tires according to the conditions, limitations, or terms of a county issued permit or this chapter, or failure to obtain a waste tire storage site owner's license is a violation of this chapter and shall be subject to civil penalties as provided in chapter 70.95 RCW and RCW 9A.20.020(2) or to any other enforcement action provided by law. Each day that a violation occurs is a separate violation and may be the subject of separate penalties.

[Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-320, filed 1/13/89.]

WAC 173-314-330 Records. Each owner of a waste tire storage site whose site accepts waste tires after April 1, 1989, shall as a condition of the license:

(1) Maintain records of numbers of waste tires received and shipped.

(2) The licensee shall issue written receipts upon receiving loads of waste tires. Quantities may be measured by aggregate loads or cubic yards, if the licensee documents the approximate number of tires included in each. These records shall be maintained for a period of three years, and shall be available for inspection by ecology after reasonable notice.

[Statutory Authority: RCW 70.95.555. 89-03-047 (Order 88-33), § 173-314-330, filed 1/13/89.]

WAC 173-314-340 Reports. Starting on first anniversary of license issuance, and thereafter, as a requirement for license renewal, license reapplication by the owner, or license application by a new owner, the waste tire storage site owner shall submit a report through licensing for ecology review stating the following:

(1) The names and business addresses, and business licenses (if available) of all waste tire carriers that have delivered waste tires to the site, and shipped waste tires from the site, together with the quantity of waste tires shipped with those carriers.

(2) An accounting of the approximate total number of tires deposited at the site during the previous year.

(3) An accounting of the approximate total number of tires removed from the site.

(4) The number of waste tires located at the site at the time of the report.

The report form will be mailed to you by the department of licensing along with the license renewal notification forty-five days prior to the date of license renewal. The report shall be returned along with the license renewal application to the department of licensing.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-340, filed 1/13/89.]

Chapter 173-315 WAC
MODEL TOXICS CONTROL ACT--LOCAL TOXICS
CONTROL ACCOUNT--INTERIM FINANCIAL
ASSISTANCE PROGRAM

WAC

173-315-010	Purpose and authority.
173-315-020	Definitions.
173-315-030	Relation to other legislation and administrative rules.
173-315-040	General.
173-315-050	Remedial action grants.
173-315-060	Hazardous waste planning and program grants.
173-315-070	Solid waste planning and program grants.

WAC 173-315-010 Purpose and authority. The purpose of this chapter is to set forth eligibility criteria and requirements for the conduct of an interim financial assistance program to provide grants to local government pursuant to the Model Toxics Control Act. The department may provide grants to local government for:

- (1) Remedial actions;
- (2) Hazardous waste plans and programs under chapter 70.105 RCW;
- (3) Solid waste plans and programs under chapter 70.95 RCW.

This chapter recognizes the burden placed upon rate-payers due to the high costs of cleanups, and solid and hazardous waste management, and consistent with the Model Toxics Control Act, provides financial assistance to mitigate such hardships.

This chapter recognizes the importance of a strong preventive program to alleviate future contamination through proper solid and hazardous waste planning and management. It is designed to provide assistance to local governments in carrying out these vital functions pursuant to the requirements of chapters 70.95 and 70.105 RCW, and the Model Toxics Control Act.

The interim financial assistance program will provide financial assistance to local governments in the form of grants.

The authority to provide financial assistance to local government is granted under the Model Toxics Control Act.

[Statutory Authority: 1989 c 2, 89-17-072 (Order 89-11), § 173-315-010, filed 8/17/89, effective 9/17/89.]

WAC 173-315-020 Definitions. (1) "Collection events" means events such as, but not limited to, projects in which household hazardous wastes are collected at centralized location(s) for subsequent packaging and transport to a permitted treatment storage or disposal facility.

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

(3) "Existing facility" means an owned or leased landfill in operation, or for which construction has begun, on or before the effective date of chapter 173-304 WAC for which the owner or operator has obtained permits or approvals necessary under federal, state and

local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss. Physical construction of the facility is to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of chapter 173-304 WAC shall be considered existing facilities.

(4) "Hazard ranking system" means the system for ranking and prioritizing hazardous waste sites to be adopted by the department pursuant to the Model Toxics Control Act.

(5) "Household hazardous wastes" means any liquid, solid, contained gas or sludge, including any material, substance, product, commodity or waste used or generated in the household, regardless of quantity, that exhibits any of the characteristics of dangerous waste as set forth in chapter 173-303 WAC

(6) "Local governments" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

(7) "Minimum functional standards" means the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling.

(8) "Moderate-risk waste" means:

(a) Any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation; and

(b) Any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(9) "Remedial action" means any action or expenditure, to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(10) "Settlement agreement" means any consent decree entered into pursuant to RCW 70.105B.080, the Model Toxics Control Act, or any consent order or decree with the department in effect October 16, 1987.

[Statutory Authority: 1989 c 2, 89-17-072 (Order 89-11), § 173-315-020, filed 8/17/89, effective 9/17/89.]

WAC 173-315-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

[Statutory Authority: RCW 70.95.555, 89-03-047 (Order 88-33), § 173-314-340, filed 1/13/89.]

Chapter 173-315 WAC
MODEL TOXICS CONTROL ACT--LOCAL TOXICS
CONTROL ACCOUNT--INTERIM FINANCIAL
ASSISTANCE PROGRAM

WAC

173-315-010	Purpose and authority.
173-315-020	Definitions.
173-315-030	Relation to other legislation and administrative rules.
173-315-040	General.
173-315-050	Remedial action grants.
173-315-060	Hazardous waste planning and program grants.
173-315-070	Solid waste planning and program grants.

WAC 173-315-010 Purpose and authority. The purpose of this chapter is to set forth eligibility criteria and requirements for the conduct of an interim financial assistance program to provide grants to local government pursuant to the Model Toxics Control Act. The department may provide grants to local government for:

- (1) Remedial actions;
- (2) Hazardous waste plans and programs under chapter 70.105 RCW;
- (3) Solid waste plans and programs under chapter 70.95 RCW.

This chapter recognizes the burden placed upon ratepayers due to the high costs of cleanups, and solid and hazardous waste management, and consistent with the Model Toxics Control Act, provides financial assistance to mitigate such hardships.

This chapter recognizes the importance of a strong preventive program to alleviate future contamination through proper solid and hazardous waste planning and management. It is designed to provide assistance to local governments in carrying out these vital functions pursuant to the requirements of chapters 70.95 and 70.105 RCW, and the Model Toxics Control Act.

The interim financial assistance program will provide financial assistance to local governments in the form of grants.

The authority to provide financial assistance to local government is granted under the Model Toxics Control Act.

[Statutory Authority: 1989 c 2, 89-17-072 (Order 89-11), § 173-315-010, filed 8/17/89, effective 9/17/89.]

WAC 173-315-020 Definitions. (1) "Collection events" means events such as, but not limited to, projects in which household hazardous wastes are collected at centralized location(s) for subsequent packaging and transport to a permitted treatment storage or disposal facility.

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

(3) "Existing facility" means an owned or leased landfill in operation, or for which construction has begun, on or before the effective date of chapter 173-304 WAC for which the owner or operator has obtained permits or approvals necessary under federal, state and

local statutes, regulations and ordinances. A facility has commenced construction if either:

(a) A continuous on-site physical construction program has begun; or

(b) The owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial financial loss. Physical construction of the facility is to be completed within a reasonable time.

Lateral extensions of a landfill's active area on land purchased and permitted by the jurisdictional health department for the purpose of landfilling before the effective date of chapter 173-304 WAC shall be considered existing facilities.

(4) "Hazard ranking system" means the system for ranking and prioritizing hazardous waste sites to be adopted by the department pursuant to the Model Toxics Control Act.

(5) "Household hazardous wastes" means any liquid, solid, contained gas or sludge, including any material, substance, product, commodity or waste used or generated in the household, regardless of quantity, that exhibits any of the characteristics of dangerous waste as set forth in chapter 173-303 WAC

(6) "Local governments" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

(7) "Minimum functional standards" means the requirements of chapter 173-304 WAC, Minimum functional standards for solid waste handling.

(8) "Moderate-risk waste" means:

(a) Any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under this chapter solely because the waste is generated in quantities below the threshold for regulation; and

(b) Any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

(9) "Remedial action" means any action or expenditure, to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(10) "Settlement agreement" means any consent decree entered into pursuant to RCW 70.105B.080, the Model Toxics Control Act, or any consent order or decree with the department in effect October 16, 1987.

[Statutory Authority: 1989 c 2, 89-17-072 (Order 89-11), § 173-315-020, filed 8/17/89, effective 9/17/89.]

WAC 173-315-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

(2) The remedial action grants shall be used to supplement local government funding to carry out required remedial actions.

(3) Hazardous waste planning and program grants shall be awarded to local government to implement chapter 70.105 RCW, and the Model Toxics Control Act.

(4) Solid waste planning and program grants shall be awarded to implement chapter 70.95 RCW, and the Model Toxics Control Act.

(5) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

[Statutory Authority: 1989 c 2. 89-17-072 (Order 89-11), § 173-315-030, filed 8/17/89, effective 9/17/89.]

WAC 173-315-040 General. (1) Apportionment of funds.

For purposes of implementing the interim financial assistance program, the local toxics account shall be apportioned between the following categories as follows:

- (a) Remedial actions.
- (b) Hazardous waste plans and programs.
- (c) Solid waste plans and programs.

(2) Adjustment of funds. Based on a periodic internal review of grant applications received, grant obligations, grant fund balances, and revenue projections, the department may allocate funds by grant category or readjust the amount of funds that may be allocated under any and all grant categories.

(3) Grant application process. Grant application deadlines and schedules will be announced based upon funding allocations for each of the funding priority grant programs.

Grant application packages which include grant application deadlines, guidelines, application forms, and detailed information will be provided to all interested parties.

When applications are received by the department, they will be reviewed and scored if it is a competitive grant program by a committee consisting of department personnel. Applications need to include all required elements, as outlined in the guidelines, in order to be competitive.

After an application is reviewed and/or scored and an award notice letter is sent out, the department will contact the applicant to negotiate the final details of the scope of work, budget, and any other items of concern.

A grant offer is made by the department to the applicant in the form of a grant contract when all applicant and project eligibility requirements have been met, funds are available, and the formal application has been completed to the mutual satisfaction of the applicant and the department.

A grant award is made when a grant agreement has been signed by both the applicant and the department. The grant agreement becomes effective on the date the program manager of the solid and hazardous waste program of the department signs the contract. This also establishes the beginning date of the project. No costs

incurred prior to that date are grant eligible unless specific provision is made in the grant agreement for such costs.

(4) Appropriation and allotment of funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.

(5) Administrative practices. All grants under this chapter shall be consistent with the provisions of *Financial Guidelines for Grants Management*, WDOE 80-6, May 1980, reprinted March 1982, or subsequent guidelines adopted thereafter.

(6) The department encourages cooperation and coordination among units of local government and any funds granted under this chapter may be used by any unit of local government through interagency agreements.

(7) The department may issue grants to local governments that applied for funding assistance authorized by chapter 70.105B RCW and chapter 173-309 WAC.

(8) A maximum of fifty percent of the grantee cost share may be from in-kind contributions.

(9) A maximum indirect cost rate of ten percent of direct labor will be allowed unless the grantee has an indirect rate approved by a federal or state audit agency. The department reserves the right to determine the amount of indirect allowance in each grant agreement.

[Statutory Authority: 1989 c 2. 89-17-072 (Order 89-11), § 173-315-040, filed 8/17/89, effective 9/17/89.]

WAC 173-315-050 Remedial action grants. (1) Applicant eligibility. An applicant for a remedial action grant must be a local government which will use the grant for the purpose of planning and/or carrying out required remedial action at a landfill site used primarily for the disposal of municipal solid waste.

An applicant must also meet one of the following requirements:

(a) Be a party to a consent decree under chapter 70.105B RCW, the Model Toxics Control Act, or a consent order under chapter 90.48 RCW requiring remedial action at a landfill site; or

(b) Have been issued an enforcement order under RCW 90.48.120, the Model Toxics Control Act, or RCW 70.105B.120 (1)(c)(ii) or (2), requiring remedial action at a landfill site.

Sites meeting eligibility requirements shall be deemed, for the purposes of this chapter, to be on the hazard ranking list pending issuance of such a list.

(2) Eligible project costs.

(a) Remedial action grants are for the purpose of assisting local governments to plan and carry out required remedial action at public or private facilities used primarily for the disposal of municipal solid waste.

(b) Costs are grant eligible if their purpose is to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment. This includes any investigative and

monitoring activities with respect to any release or threatened release of a hazardous substance as well as any health assessments or health effect studies conducted in order to determine the risk or potential risk to human health. Costs eligible for grant funding include:

(i) Remedial investigations to define the extent and source of contamination;

(ii) Feasibility studies to develop and evaluate cleanup options;

(iii) Remedial design, including final engineering and preparation of plans and specifications needed to implement remedial action;

(iv) Monitoring;

(v) Methane control;

(vi) Excavating the site to remove or relocate contaminated materials, or removing and cleaning up drums, debris, and other contaminated materials;

(vii) Run-on/run-off water control systems;

(viii) Final cover;

(ix) Ground water treatment and control;

(x) In situ treatment technology;

(xi) Acquisitions of off-site property or property easements only for the purpose of gaining access to a facility requiring remedial action, or for the purpose of installing monitoring wells or other pollution abatement equipment or for other purposes relating to remedial action;

(xii) Fencing where waste disposal has terminated or to limit access to structures built to implement a remedial action;

(xiii) Other remedial action activities as determined by the department on a case-by-case basis.

(3) Retroactive funding. Retroactive funding will be allowed for all eligible work conducted under a signed settlement agreement. Retroactive funding may be allowed for costs incurred since October 16, 1987.

(4) Matching requirements. Up to fifty percent state funding will be available for eligible project costs as defined in subsection (2)(a)(i), (ii), (iii), and (iv) of this section; remedial investigations, feasibility studies, remedial design, and monitoring. Up to twenty-five percent state funding will be available for all other eligible project costs.

[Statutory Authority: 1989 c 2. 89-17-072 (Order 89-11), § 173-315-050, filed 8/17/89, effective 9/17/89.]

WAC 173-315-060 Hazardous waste planning and program grants. (1) Applicant eligibility.

(a) Hazardous waste planning. Eligible local governments under this section are cities, towns, or counties pursuant to RCW 70.105.010(16).

(b) Implementation projects. The applicant must be a local government.

(c) Collection events. The applicant must be a local government.

(2) Eligible project costs.

(a)(i) Hazardous waste planning.

Eligible project costs include activities and tasks to develop or update local hazardous waste management

plans, if they are consistent with the department's *Planning Guidelines for Local Hazardous Waste Plans*, July 1987, WDOE 87-18.

In-depth planning studies to provide detailed analysis of specific plan elements may be undertaken as a part of an overall planning grant, or separately if it can be demonstrated that the planning requirements are otherwise being met.

(ii) Retroactive funding. Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local hazardous waste plans and are in conformance with *Planning Guidelines for Local Hazardous Waste Plans*, July 1987, WDOE 87-18 and subsequent addenda.

(b) Collection events. Eligible project costs include activities and tasks required to plan and carry out hazardous waste collection events for household and/or small quantity generator hazardous waste.

(c) Implementation projects. Eligible project costs include activities and tasks to (i) reduce, recycle, or improve handling methods for moderate-risk waste, or (ii) educate the public and businesses on alternative moderate-risk waste reduction, recycling, and handling methods.

(3) Matching requirements.

(a) Hazardous waste planning. Grants will be made for up to seventy-five percent of the total eligible project cost, however, based on prior department approval, direct local costs of hazardous household substance pilot or collection projects conducted between June 30, 1985, and June 30, 1988, may be subtracted from the twenty-five percent local share of total project costs, therefore the department may make grants up to one hundred percent of the total project cost in these cases.

(b) Collection events. Grants will be made for up to fifty percent of the total eligible project cost, or fifteen thousand dollars per grant or local government, whichever is the lesser amount.

(c) Implementation projects. Grants will be made for up to fifty percent of the total eligible project cost, or fifty thousand dollars per project, whichever is the lesser amount.

(4) Priority for allocation of grant funds.

(a) Hazardous waste planning. It is the department's intent that grants be awarded for all local hazardous waste plan development state-wide. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

(b) Collection events. The grants will be awarded on a first-come first-served basis, subject to availability of funds, technical adequacy, and application completeness.

(c) Implementation projects. Grant applications will be ranked according to the following criteria:

(i) Adequacy of and integration with local hazardous waste plans. The local government must be in the process of developing or have completed a local hazardous waste plan. The project must be identified as a part of the local hazardous waste plan.

(ii) Promotion of hazardous waste management priorities. A project must address one or more of the following: Hazardous waste reduction, recycling, or the methods of handling.

(iii) Environmental and public health protection. Special consideration will be given to local governments which have a special need to protect a sensitive resource or existing public health problem.

(iv) Generation of information. The project must result in information useful to the solution of moderate-risk waste problems.

[Statutory Authority: 1989 c 2. 89-17-072 (Order 89-11), § 173-315-060, filed 8/17/89, effective 9/17/89.]

WAC 173-315-070 Solid waste planning and program grants. (1) Applicant eligibility.

(a) Solid waste planning. Eligible local governments under this section are counties and cities pursuant to RCW 70.95.130.

(b) Waste reduction and recycling. The applicant must be a local government.

(c) Groundwater monitoring. The applicant must be a local government.

(2) Eligible project costs.

(a) Solid waste planning.

(i) General. Costs for developing or updating local solid waste management plans are grant eligible if:

(A) They are necessary to conduct the project;

(B) They are consistent with department's solid waste-planning guidelines and subsequent addenda.

(ii) Retroactive. Funding retroactive to October 16, 1987, will be allowed for costs incurred which are directly related to the preparation of local solid waste plans and are in conformance with the state Solid Waste Planning Guidelines, May 1986, WDOE 86-4 and subsequent addenda.

(b) Waste reduction and recycling.

(i) Waste reduction and recycling activities and facilities are eligible provided that:

(A) It is demonstrated that the proposed waste reduction and recycling activity, facility, or service is not reasonably available to persons within the locale from private enterprise; and

(B) It is demonstrated that the project is economically feasible and suitable for successful implementation.

(ii) General. Costs are grant eligible if:

(A) They are necessary to conduct the project;

(B) They are consistent with the department's grant guidelines for waste reduction and recycling.

(iii) Waste reduction and recycling facilities. Eligible project activities include:

(A) Planning and feasibility studies, environmental impact statements, and permitting costs;

(B) Preparation of design documents;

(C) Facility construction;

(D) Purchase of specialized equipment.

(iv) Waste reduction and recycling activities. Eligible project activities include:

(A) Public education;

(B) Public involvement;

(C) Program development.

(c) Groundwater monitoring.

(i) A groundwater monitoring project is eligible provided that it is addressed within a facility maintenance and operation plan, as required by chapter 173-304 WAC.

(ii) General. Costs are grant eligible if:

(A) They are necessary to conduct the project;

(B) They are consistent with the department's grant guidelines for groundwater monitoring.

(iii) Groundwater monitoring. Eligible costs include costs incurred by grantees that are owners and operators of landfills, piles, landspreading disposal facilities, and surface impoundments that are required to perform groundwater monitoring pursuant to WAC 173-304-400. Direct costs involved in design and installation of groundwater monitoring wells at existing facilities as defined by WAC 173-304-100 (27)(a) and (b), will be eligible for funding.

(iv) Retroactive funding may be allowed for all eligible costs incurred since October 16, 1987.

(3) Matching requirements.

(a) Solid waste planning. Grants will be made up to fifty percent of the total eligible project cost.

(b) Waste reduction and recycling. Grants will be made up to seventy-five percent of the total eligible project cost.

(c) Groundwater monitoring. Grants will be made up to fifty percent of the total eligible project costs, not to exceed a maximum of fifty thousand dollars per project.

(4) Priority for allocation of grant funds.

(a) Solid waste planning. It is the department's intent that grants be awarded for developing or updating local solid waste management plans state-wide. Subject to the limits of available funds, those applications that meet eligibility requirements will be approved for funding on a first-come first-served basis.

(b) Waste reduction and recycling. Grant applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The project ranking criteria are as follows:

(i) How the project or activity integrates with the current and planned solid waste management system and local comprehensive plans.

(ii) How the project or activity will contribute to increased waste reduction and recycling.

(iii) The probable success of the project or activity.

(iv) Demonstration that the project or activity scope is compatible with the cost and needs of the project or activity.

(v) How the project or activity will be operated, maintained, or continued beyond the grant funding period.

(vi) Other criteria as may be defined in the waste reduction and recycling grant guidelines.

(c) Groundwater monitoring. Grant applications will be ranked according to how each project application meets the criteria set forth below. Grants will be

awarded within the limits of available funds to the highest ranking project applications that otherwise meet provisions for completeness and technical adequacy. The ranking criteria are as follows:

- (i) Ability to pay. Priority will be given to local governments in economically distressed areas.
- (ii) How, or if, the project will contribute directly to the identification or solution of an existing environmental or public health problem.
- (iii) Other criteria as may be defined in the groundwater monitoring grant guidelines.

[Statutory Authority: 1989 c 2. 89-17-072 (Order 89-11), § 173-315-070, filed 8/17/89, effective 9/17/89.]

Chapter 173-318 WAC PHASE ONE--WASTE REDUCTION AND RECYCLING GRANTS

WAC

173-318-010	Purpose and authority.
173-318-020	Relation to other legislation and administrative rules.
173-318-030	Definitions.
173-318-040	Funding.
173-318-050	Procedures.
173-318-060	Eligibility and grantee match requirements.
173-318-070	Waste reduction/recycling best management practices study demonstration project grants.
173-318-080	Preimplementation program design grants for waste reduction/recycling projects.

WAC 173-318-010 Purpose and authority. The purpose of this chapter is to set forth eligibility criteria and requirements for the first phase of a financial assistance program that provides grants to further the state's waste management priorities. The department shall provide grants for:

- (1) Waste reduction/recycling demonstration projects in urban and rural areas.
- (2) Preimplementation program designs for waste reduction and recycling projects.

The authority to provide financial assistance is granted under chapters 43.83A and 43.99F RCW.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-010, filed 9/5/89, effective 10/6/89.]

WAC 173-318-020 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

(2) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-020, filed 9/5/89, effective 10/6/89.]

WAC 173-318-030 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings described herein.

(1) "Best management practices study" means the analysis and evaluation of solid waste management in the state of Washington conducted by the Washington

state department of ecology, as required by RCW 70.95.280.

(2) "Buy-back center" means a facility where source separated recyclable materials are delivered for compensation.

(3) "Collection box" means a container or device used to temporarily hold recyclable material before collection.

(4) "Collection system" means the complete system employed to collect recyclable materials, which may include curbside collection, drop-box recycling facilities, buy-back centers, or other methods or combinations thereof, and includes operations and maintenance, and methods to encourage participation.

(5) "Commercial waste substream" means garbage and recyclable materials generated at places of business except manufacturing.

(6) "Composting" means biological stabilization of organic matter through aerobic digestion.

(7) "Curbside collection" means the collection of source-separated recyclable materials from residences and places of business.

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

(9) "Drop-box recycling facility" means a facility accessible to the public to leave recyclable material, without remuneration, consisting of separate receptacles for each recyclable material collected.

(10) "Energy recovery or incineration" means reducing the volume of wastes by use of an enclosed device using controlled flame combustion.

(11) "Equipment" means those items with a life expectancy of one year or more and a cost of over one thousand dollars that are necessary to implement the waste reduction and recycling system, excluding office equipment such as desks, chairs, and bookcases.

(12) "Indirect costs" means costs that are incurred for (a) common or joint purpose benefiting more than one cost objective and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

(13) "In-kind costs" means contributions and services used as a portion of the grantee's matching share of the project costs.

(14) "Intermediate processing center" means a facility where source-separated recyclable materials are prepared for marketing to end users.

(15) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(16) "Manufacturing waste substream" means garbage and recyclable materials generated by persons engaged in creating products.

(17) "Market" means an end user for recyclable materials.

(18) "Material recovery facility" means a facility where recyclable materials are extracted from mixed wastes and prepared for marketing to end users.

(19) "Operations costs" means costs associated with implementing a project or program, including but not limited to, staff and associated costs, goods and services, and contracted services.

(20) "Operations plan" means a design for system functions, including but not limited to, staffing and maintenance needs and a funding mechanism.

(21) "Organic matter" means material originating from plants or animals, limited to food wastes, food processing wastes, wastes from farming or gardening, sewage sludges, logging and milling residues, pulp and paper products, and yard debris that are found in the solid waste stream.

(22) "Organics processing" means the processing of yard debris or other organic matter to produce usable soil conditioners or amendments through composting, fermentation, anaerobic digestion, or other processes.

(23) "Preimplementation program design" means a document detailing a waste reduction and/or recycling system unique to the needs of a geographical area that includes, but is not limited to, all information about the system plans and specifications, staffing plans, implementation schedules, operations and maintenance plans and costs, SEPA compliance, and permitting costs.

(24) "Recyclable materials" means those solid wastes that can be diverted for recycling or reuse, which otherwise would be disposed of through landfill, energy recovery, or incineration.

(25) "Recycling" means the collection of recyclable material, followed by the transformation of the material into potentially usable materials for use other than landfill disposal, energy recovery or incineration, followed by consumption by an end-user that transforms the material into a product for consumer use.

(26) "Residential waste substream" means garbage and recyclable materials generated by households.

(27) "Solid waste substream" means garbage, refuse and recyclable materials, and is made up of four substreams including residential, commercial, manufacturing, and self-haul.

(28) "Source separation" means separation of recyclable materials and garbage at the point of generation.

(29) "Waste reduction" means all practices that reduce, avoid, or eliminate the amount of toxicity of waste generated, including reuse of materials.

(30) "Yard debris" means vegetation from homes and businesses that can be converted through biological processes into usable soil amendments or other usable products.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-030, filed 9/5/89, effective 10/6/89.]

WAC 173-318-040 Funding. For purposes of implementing the financial assistance program under this chapter, four million one hundred fifty thousand dollars shall be available and shall be apportioned as follows:

- (1) Grants for waste reduction/recycling demonstration projects. (chapter 43.99F RCW) \$3,112,500
- (2) Grants for preimplementation program design for waste reduction and recycling projects. (chapter 43.83A RCW) \$1,037,500

Based on an internal review of grant applications received, grant obligations and grant fund balances, the

department may reallocate funds by grant category or readjust the amount of funds that may be allocated under any and all grant fund categories.

The obligation of the department to make grant payments is contingent upon the availability of funds through allotment or appropriation, and such other conditions not reasonably foreseeable by the department rendering performance impossible.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-040, filed 9/5/89, effective 10/6/89.]

WAC 173-318-050 Procedures. (1) Grant application packages, which include administrative guidelines, application forms, and detailed information, will be provided to all interested parties.

(2) Applicants may seek technical assistance from the department.

(3) Applications submitted to the department will be reviewed and scored by the department. Applications must include all required elements as outlined in the guidelines to be considered for funding. Applications will be ranked competitively.

(4) Award letters will be sent to applicants selected for funding after which final details regarding the scope of work, budget, and other items of concern will be negotiated.

(5) A grant offer is made by the department to the applicant in the form of a grant agreement when all applicant and project eligibility requirements have been met, funds are available, and the formal application has been completed to the mutual satisfaction of the applicant and the department.

(6) A grant award is made when a grant offer has been signed by both the applicant and the department. No costs incurred prior to the effective date of the grant are eligible unless specific provision is made in the grant agreement for such costs.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-050, filed 9/5/89, effective 10/6/89.]

WAC 173-318-060 Eligibility and grantee match requirements. (1) Eligible grantees include the state of Washington or any agency, political subdivision, taxing district or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

(2) The department will provide up to seventy-five percent of the total eligible project costs for demonstration projects, pursuant to chapter 43.99F RCW.

(3) The department will provide up to eighty-five percent of the total eligible project costs for preimplementation program designs, pursuant to chapter 43.83A RCW, but will not provide more than one hundred thousand dollars.

(4) A maximum of fifty percent of the grantee cost share may be from in-kind contributions.

(5) A maximum indirect cost rate of ten percent of direct labor will be allowed unless the grantee has an

indirect rate approved by a federal or state audit agency. The department reserves the right to determine the amount of indirect allowance in each grant agreement.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-060, filed 9/5/89, effective 10/6/89.]

WAC 173-318-070 Waste reduction/recycling best management practices study demonstration project grants. (1) Eligible projects include comprehensive waste reduction and recycling systems that test the findings of the best management practices study related to methods and systems for achieving maximum levels of waste reduction and recycling.

(2) This may include the complete system employed to collect, process and market recyclable materials, including yard debris and organic matter. Eligible project costs include equipment and facilities for curbside collection programs, drop-box recycling programs, buy-back centers, composting, organics processing, material recovery, intermediate processing and marketing, or other methods or combinations thereof. Eligible costs also include operation and maintenance costs as well as methods to encourage participation.

(3) The system will include the participation of private enterprise where it has a demonstrated ability and current capacity to provide needed services. Eligible project costs shall not include the support of solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise.

(4) Priority for allocation of grants: Grant applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The demonstration project ranking criteria are as follows:

(a) Extent to which the waste stream will be reduced. Priority will be given to those projects emphasizing reduction and recycling through curbside collection or its equivalent.

(b) The extent to which the project will test the findings of the best management practices study.

(c) Applicant's degree of compliance with solid waste management planning requirements.

(d) Integration of the project with the existing solid waste system and recycling operations in the geographical area to be served.

(e) Comprehensiveness of the operations, maintenance, and implementation plans.

(f) Inclusion of evaluation criteria that, if met, would result in continuation of the project with local funding beyond the demonstration period.

(g) Proposed evaluation methodology.

(h) Transferability of methods and systems to other jurisdictions.

(i) Appropriateness of project size to meet the needs of the area to be served.

(j) Extent to which the project serves more than one geographical area.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-070, filed 9/5/89, effective 10/6/89.]

WAC 173-318-080 Preimplementation program design grants for waste reduction/recycling projects. (1) Eligible projects include the design of a waste reduction and/or recycling program or project unique to the needs of a geographical area. It should include the participation of private enterprise where there is a demonstrated ability and current capacity to provide needed services.

(2) Program designs include detailed information about, but are not limited to, the program or project plans and specifications, staffing plans, implementation schedules, operations and maintenance plans and costs, compliance with SEPA, and permitting costs. The program design may also include development of RFPs and RFQs, analysis of specific program elements to determine those that can best meet the needs of the community as identified in the local comprehensive solid waste management plan, and preparation of funding proposals.

(3) Eligible costs shall not include the design of programs that support a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available from private enterprise to persons within that locale.

(4) Priority for allocation of grants: Grant applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications that otherwise meet provisions for completeness and technical adequacy. The program design project evaluation criteria are as follows:

(a) Priority will be given to those projects that have a demonstrated financial commitment and ability to support the designed system.

(b) Integration of program or project with local comprehensive solid waste management plan.

(c) Ability to carry out the proposed work.

(d) Approach to project management including management of consultants, if applicable.

(e) Approach to community involvement.

(f) Extent to which the program or project will serve the needs of more than one jurisdictional area.

[Statutory Authority: Chapters 43.83A and 43.99F RCW. 89-18-070 (Order 89-29), § 173-318-080, filed 9/5/89, effective 10/6/89.]

Chapter 173-320 WAC

BEVERAGE CONTAINERS--DETACHABLE PULL TABS

WAC

173-320-010	Authority.
173-320-020	Declaration of purpose.
173-320-030	Applicability.
173-320-040	Definitions.
173-320-050	Prohibition.
173-320-060	Return requirement.
173-320-070	Complaints.
173-320-080	Enforcement.

WAC 173-320-010 Authority. Pursuant to chapter 113, Laws of 1982, the department of ecology is given authority to adopt rules interpreting the chapter.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-010, filed 6/1/83.]

WAC 173-320-020 Declaration of purpose. This chapter prohibits sale or offers to sell at retail levels beverage containers with detachable pull tabs for opening after July 1, 1983. The department of ecology is designated the state agency responsible for the administration and enforcement of this chapter.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-020, filed 6/1/83.]

WAC 173-320-030 Applicability. The provisions of this chapter shall apply statewide to any retailer or wholesaler who engages in the distribution of beverages in sealed containers intended to be offered for sale at retail outlets within the state of Washington.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-030, filed 6/1/83.]

WAC 173-320-040 Definitions. (1) "Department" means the department of ecology created under chapter 43.21A RCW.

(2) "Beverage" means beer or other malt beverage or mineral water, soda water, or other drink in liquid form intended for human consumption.

(3) "Beverage container" means a separate and sealed can containing a beverage.

(4) "Sell or offer to sell" means to advertise, display or set out in such a way to make available for purchase to any other outlet or person.

(5) "Retail outlet" means any business which engages in sale of any products to the general public within the state of Washington.

(6) "Wholesale outlet" means any business or organization that sells any products to retail outlets for eventual resale to the general public within the state of Washington.

(7) "Violation" means for a retailer or wholesaler to sell or offer to sell any number of beverage containers with illegal, detachable metal rings or tabs during any one day period. Each day of continuing violation constitutes a separate violation.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-040, filed 6/1/83.]

WAC 173-320-050 Prohibition. No person may sell or offer to sell at retail in this state any beverage containers so designed and constructed that under normal conditions a metal part of the container is detachable in opening the container through the use of a metal ring or tab. Nothing in this section prohibits the sale of a beverage container which is opened by use of pressure sensitive or metallic tape.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-050, filed 6/1/83.]

WAC 173-320-060 Return requirement. Any wholesale or distributor who delivers beverage containers within the state of Washington which are in violation of this chapter on or after June 1, 1983, to any retail outlet shall be required to retrieve any illegal containers remaining at the retail sites after June 30, 1983, at his own expense, with full refund to the retailer of the price paid by that retailer. Failure to remove said containers from retail premises constitutes a violation of the act.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-060, filed 6/1/83.]

WAC 173-320-070 Complaints. Complaints of alleged violation of this chapter may be made to the department by any person. Complaints shall be in writing and shall contain an allegation of violation accompanied by a receipt or affidavit of purchase indicating location and date of purchase and/or by the offending items or a photo of the item.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-070, filed 6/1/83.]

WAC 173-320-080 Enforcement. The department shall have the authority to initiate investigations and complaints and require corrective action by the retailer or wholesaler.

Response by the department to allegations of violation may consist of:

(1) Verification of allegation which may include visit to the site to ascertain extent of violation, and

(2) Written warning to violator giving seven days from date of receipt.

Failure by the retailer to comply with written warning may require a written notice of violation from the department, allowing seven more days for the violator to remove the illegal container(s).

Failure by the retailer to comply with notice of violation may require assessment of a civil penalty not exceeding five hundred dollars per day for each violation, upon written order of the director of the department.

[Statutory Authority: Chapter 113, Laws of 1982 [chapter 70.132 RCW]. 83-12-062 (Order DE 82-39), § 173-320-080, filed 6/1/83.]

Chapter 173-321 WAC PUBLIC PARTICIPATION GRANTS

WAC

173-321-010	Purpose and authority.
173-321-020	Definitions.
173-321-030	Relationship to other legislation and administrative rules.
173-321-040	Applicant eligibility.
173-321-050	Application evaluation criteria.
173-321-060	Eligible project costs.
173-321-070	Grant funding.
173-321-080	Grant administration.

WAC 173-321-010 Purpose and authority. (1) The department is directed by the Model Toxics Control Act to provide grants up to fifty thousand dollars to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-

profit public interest groups. These grants shall be used to facilitate public participation in the investigation and remediation of a release or threatened release of a hazardous substance and to facilitate public participation in the implementation of the state's solid and hazardous waste management priorities.

(2) The purpose of this chapter is to set forth eligibility criteria and funding requirements for grant projects.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-010, filed 10/17/89, effective 11/17/89.]

WAC 173-321-020 Definitions. As used in this chapter:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology or such person authorized to act for the director.
- (3) "Expendable personal property" means all tangible personal property other than nonexpendable personal property.
- (4) "Facility" means:
 - (a) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, waste pile, pond, lagoon, impoundment, ditch, landfill, tank, storage container, motor vehicle, rolling stock, vessel, or aircraft; or
 - (b) Any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.
- (5) "Grant applicant" means any person requesting a public participation grant.
- (6) "Hazardous substance" means:
 - (a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6) or any dangerous or extremely hazardous waste designated by rule pursuant to chapter 70.105 RCW;
 - (b) Any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW;
 - (c) Any substance that, on March 1, 1989, is a hazardous substance under 101 (14) of the Federal Cleanup Law, 42 U.S.C. Sec. 960(14);
 - (d) Petroleum or petroleum products; and
 - (e) Any substance or category of substances including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment. Except that:

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local laws.
- (7) "Hazardous waste management priorities" as defined in RCW 70.105.150 are the priorities in the management of hazardous waste which should be followed in descending order as applicable:
 - (a) Waste reduction;
 - (b) Waste recycling;
 - (c) Physical, chemical, and biological treatment;

- (d) Incineration;
- (e) Solidification/stabilization treatment;
- (f) Landfill.
- (8) "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of three hundred dollars or more per unit.
- (9) "Not-for-profit public interest organization" means any corporation, trust, association, cooperative, or other organization which:
 - (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - (b) Is not organized primarily for profit; and
 - (c) Uses its net proceeds to maintain, improve, and/or expand its operations.
- (10) "Owner/operator" means:
 - (a) Any person with any ownership interest in the facility or who exercises any control over the facility; or
 - (b) In the case of an abandoned facility, any person who had owned, operated, or exercised control over the facility any time before its abandonment;

The term does not include:

 - (i) An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title, unless that agency of the state or unit of local government has caused or contributed to the release or threatened release of hazardous substances from the facility; or
 - (ii) A person who, without participation in the management of a facility, holds identification of ownership primarily to protect the person's security interest in the facility.
- (11) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.
- (12) "Personal property" means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence), such as patents, inventions, and copyrights.
- (13) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under section 4 of the Model Toxics Control Act. The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.
- (14) "Real property" means land, land improvements, structures, and appurtenances thereto, excluding moveable machinery and equipment.
- (15) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.
- (16) "Remedy, remediation, or remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous

substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(17) "Solid waste management priorities" as defined in chapter 70.95 RCW are the priorities in the management of solid waste which should be followed in order of descending priority as applicable:

- (a) Waste reduction;
- (b) Recycling with source separation of recyclable materials as the preferred method;
- (c) Energy recovery, incineration, or landfill of separated waste;
- (d) Energy recovery, incineration, or landfill of mixed waste.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-020, filed 10/17/89, effective 11/17/89.]

WAC 173-321-030 Relationship to other legislation and administrative rules. (1) The organization receiving a grant shall comply fully with all applicable federal, state, and local laws, orders, regulations, and permits.

(2) Nothing in this chapter shall influence, affect, or modify existing department programs, regulations, or enforcement of applicable laws relating to solid and hazardous waste management and cleanup.

(3) All grants shall be subject to the existing, applicable accounting and auditing requirements of state laws and regulations.

(4) The department will prepare a guidance manual to facilitate compliance with these regulations.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-030, filed 10/17/89, effective 11/17/89.]

WAC 173-321-040 Applicant eligibility. (1) Hazardous substance release grants may only be awarded to groups of three or more unrelated persons or to not-for-profit public interest organizations involved in scientific, environmental, and public interest activities.

(2) All applicants must demonstrate the group's ability to appropriately administer grant funds.

(3) Applications for a hazardous substance release grant must include information on:

- (a) The nature of the release or threatened release of the hazardous substance;
- (b) The location of the release or threatened release of the hazardous substance;
- (c) How the applicant group may be adversely affected by the release or threatened release of the hazardous substance;
- (d) How the applicant group represents the environmental, health, and economic interests of individuals affected by the release or threatened release of the hazardous substance;
- (e) How the applicant group will promote public participation in the investigation or remediation of the release or threatened release of the hazardous substance;
- (f) A complete project description;

(1989 Ed.)

(g) The applicant group's history and experience, if any, in conducting activities similar to those described in the grant application;

(h) Any other information specified by the department as needed to award a grant.

(4) Applications for a waste management priority grant must include information on:

(a) How the applicant group will promote or implement the state solid or hazardous waste management priorities;

(b) How the applicant group represents the environmental, health, and economic interests of the individual group members;

(c) How the applicant group will promote public participation in the grant project described in the application;

(d) A complete project description;

(e) The applicant group's history and experience, if any, in conducting activities similar to those described in the grant application.

(5) Any person potentially liable, under section 4 of the Model Toxics Control Act, shall be ineligible for grant funding.

(6) Grant applications failing to qualify may be re-submitted.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-040, filed 10/17/89, effective 11/17/89.]

WAC 173-321-050 Application evaluation criteria.

(1) All grant applications received will be reviewed and evaluated by the department. Applications will be ranked according to how each application meets the criteria set forth below. Grants will be awarded, within the limits of available funds, to the highest ranking applications. The department may fund all or portions of eligible grant applications.

(a) Hazardous substance release grants.

(i) The degree to which the applicant group may be adversely or potentially adversely impacted by the release or threatened release of the hazardous substance, including but not limited to adverse or potential adverse impact to surface and drinking waters, soils, flora or fauna, species diversity, air quality, property values, marketability of agricultural crops, and recreational areas;

(ii) The degree to which the proposed project will promote public participation in the investigation or remediation of the release or threatened release of the hazardous substance;

(iii) The degree to which the applicant group represents the environmental, health, and economic interests of individuals affected by the identified release or threatened release of the hazardous substance;

(iv) Consideration will be given to groups with limited resources to secure other funds for project costs;

(v) The type and extent of the applicant group's past history and experience conducting activities similar to those described in the grant application;

(vi) If more than one group is interested in the same project, priority consideration for funding will be given to groups who consolidate.

[Title 173 WAC—p 517]

(b) Waste management priorities grants.

(i) The degree to which the proposed public participation activities are consistent with or improve upon existing solid or hazardous waste management plans and programs;

(ii) The degree to which the proposed public participation activities promote solid or hazardous waste management priorities;

(iii) The degree to which the proposed project will facilitate public participation in implementing the state's solid or hazardous waste management priorities;

(iv) Consideration will be given to groups with limited resources to secure other funds for project costs;

(v) The type and extent of the applicant group's past history and experience conducting activities similar to those described in the grant application;

(vi) If more than one group is interested in the same project, priority consideration will be given to groups who consolidate.

(2) Priority consideration for grant funding will be given to hazardous substance release grant applicants.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-050, filed 10/17/89, effective 11/17/89.]

WAC 173-321-060 Eligible project costs. (1) Eligible project costs for substance release grants shall include but not be limited to:

(a) Hiring technical assistants to review and interpret documents;

(b) Public involvement and public education activities;

(c) Reviewing specific plans for environmental testing and analysis, reviewing reports summarizing the results of such plans and making recommendations for modifications to such plans.

(d) Expendable personal property;

(e) Other public participation activities as determined by the department on a case-by-case basis.

(2) Eligible project costs for waste management priority grants shall include but not be limited to:

(a) Assisting in developing and implementing programs that promote or improve state or local solid or hazardous waste management plans;

(b) Assisting in developing programs or activities that promote and are consistent with the state solid or hazardous waste management priorities;

(c) Expendable personal property;

(d) Other public participation activities as determined by the department on a case-by-case basis.

(3) Ineligible projects and grant costs shall include but not be limited to:

(a) Independently collecting or analyzing samples at facility sites;

(b) Hiring attorneys for legal actions against potentially liable persons, facility owners, or the department;

(c) Legislative lobbying activities;

(d) Real property;

(e) Nonexpendable personal property.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-060, filed 10/17/89, effective 11/17/89.]

WAC 173-321-070 Grant funding. (1) The department may fund up to one hundred percent of eligible project costs.

(2) The maximum grant allowance shall be fifty thousand dollars.

(3) Public participation grants may be renewed annually. A new grant application must be submitted each year to be evaluated and ranked for additional funding.

(4) The department reserves the right to refuse funding to any and all applications failing to meet the grant eligibility criteria and may reopen the application period for additional applications.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-070, filed 10/17/89, effective 11/17/89.]

WAC 173-321-080 Grant administration. (1) The department shall establish grant application funding cycles each year.

(2) Public notice of application funding cycles shall be published state-wide.

(3) A grant application package will be sent to all persons interested in applying for public participation grants. Grant application packages will include notice of grant application deadlines, grant guidelines, and application forms.

(4) Grant applications will be evaluated by the department. To be funded, applications must include all required elements as outlined in the guidelines.

(5) The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation, and such other conditions not reasonably foreseeable which may preclude awarding such grants.

(6) The department, on at least a biennial basis, will determine the amount of funding available for public participation grants and establish an application and funding cycle. The minimum amount of money available for public participation grants established by The Model Toxics Control Act shall be one percent of the moneys deposited into the state and the local toxics control accounts.

(7) The department shall not be held responsible for payment of salaries, consultant fees, or other costs related to a contract of the grantee.

(8) To the extent that the Constitution and laws of the state of Washington permit, the grantee shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract.

(9) All grants under this chapter shall be consistent with the provisions of "Financial Guidelines for Grant Management" WDOE 80-6, May 1980, Reprinted March 1982, or such subsequent guidelines.

[Statutory Authority: 1989 c 2. 89-21-072 (Order 89-26), § 173-321-080, filed 10/17/89, effective 11/17/89.]

**Chapter 173-325 WAC
LOW-LEVEL RADIOACTIVE WASTE DISPOSAL**

WAC

- 173-325-010 Purpose.
- 173-325-020 Definitions.
- 173-325-030 Requirements for generators and brokers.
- 173-325-040 Requirements for site operator.
- 173-325-050 Effective dates.

WAC 173-325-010 Purpose. The purpose of this chapter is to implement section 4, chapter 2, Laws of 1986, which implements the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985.

[Statutory Authority: 1986 c 2 § 5. 86-15-008 (Order 86-14), § 173-325-010, filed 7/7/86.]

WAC 173-325-020 Definitions. (1) "Site" means the commercial low-level radioactive waste disposal site located near Richland, Washington.

(2) "Low-level radioactive waste" is defined in Public Law 99-240.

(3) "Northwest compact region" means the states of Washington, Oregon, Idaho, Utah, Montana, Alaska, and Hawaii.

(4) "Southeast compact region" means the states of South Carolina, North Carolina, Virginia, Tennessee, Florida, Mississippi, Alabama, and Georgia.

(5) "Rocky Mountain compact region" means the states of Nevada, Colorado, Wyoming, and New Mexico.

(6) "Department" means the department of ecology.

(7) "P.L. 99-240" means the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985, 99 Stat. 1842.

[Statutory Authority: 1986 c 2 § 5. 86-15-008 (Order 86-14), § 173-325-020, filed 7/7/86.]

WAC 173-325-030 Requirements for generators and brokers. (1) Any generator or broker shipping waste which originated outside the northwest compact region for disposal at the site shall pay to the state of Washington a surcharge as follows:

(a) From March 1, 1986 through December 31, 1987, \$10 per cubic foot of waste.

(b) From January 1, 1988 through December 31, 1989, \$20 per cubic foot of waste.

(c) From January 1, 1990, through December 31, 1992, \$40 per cubic foot of waste.

(2) In addition, the department may impose penalty surcharges up to the maximum extent allowed by P.L. 99-240.

(3) Surcharge payments must be mailed or electronically transferred no later than the day the respective waste shipment leaves the state of origin. In the lower left hand corner of the check, the valid site use permit number and shipment manifest number must be recorded. For electronic transfers, the valid site use permit number, and shipment manifest number, followed by the name of the facility (limited to 35 characters) must be transmitted at the time of the transfer. A copy of the face of the check, or of the receipt for wire transfer must

be attached to the shipping manifest when the shipment arrives at the disposal site.

(4) Surcharge payment may be made by a check payable to the state of Washington or by electronic transfer. Checks should be mailed to:

"LLW SURCHARGE"
Cashier
Fiscal Office
Department of Ecology
St. Martin's Campus
Mail Stop PV-11
Olympia, WA 98504

Electronic transfers (telegraphic abbreviation RAINIER SEA if needed) should be directed to:

Robert S. O'Brien, State Treasurer
Concentration Account
Rainier National Bank
Olympia Branch
Account #0041399260

(5) Prenotification forms (#A-1 and #B-1) are no longer required.

(6) Brokers are required to attach to the shipping manifest a tabulated list of those generators whose waste is being shipped. The tabulated list must include the following information in the format specified:

Date of Shipment: _____

Valid Site Use Permit #	Generator	State	Compact Region	Volume	Surcharge
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(7) Any generator or broker shipping waste which was originally generated in the southeast compact region for disposal at the site must attach to the shipping manifest a copy of the letter granting certification to export waste from the southeast compact region.

(8) Any generator or broker shipping waste which was originally generated in the Rocky Mountain compact region for disposal at the site must attach to the shipping manifest a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(9) Violation of any of these requirements may result in revocation of a generator's or broker's Washington State site use permit. Upon revocation of a site use permit, subsequent reissuance may be conditioned upon agreement to comply with appropriate conditions, such as a condition that surcharge payments be made by certified or cashiers check, and be received in advance, and a condition that the state of Washington be provided specific information at least three days prior to shipment.

[Statutory Authority: 1986 c 2 § 5. 86-15-008 (Order 86-14), § 173-325-030, filed 7/7/86.]

WAC 173-325-040 Requirements for site operator.

(1) For each waste shipment for which a surcharge is due (as required by WAC 173-325-030 (1)-(2)), arriving at the facility, obtain a copy of the surcharge payment check or receipt of electronic wire transfer before receiving the waste shipment for disposal.

(2) For each waste shipment of a broker arriving at the facility, obtain the written information required by WAC 173-325-030(5) before receiving the waste shipment for disposal.

(3) For each waste shipment that contains waste which was originally generated in the southeast compact region arriving at the facility, obtain a copy of the letter granting certification to export waste from the southeast compact region.

(4) For each waste shipment that contains waste which was originally generated in the Rocky Mountain compact region arriving at the facility, obtain a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(5) Provide to the Washington state department of ecology information on each waste shipment received for disposal at the facility, as requested by the department.

[Statutory Authority: 1986 c 2 § 5. 86-15-008 (Order 86-14), § 173-325-040, filed 7/7/86.]

WAC 173-325-050 Effective dates. This chapter shall take effect April 21, 1986, (1) except the requirements in WAC 173-325-030 (1)-(2) which took effect March 1, 1986, and (2) WAC 173-325-040(3) which takes effect immediately.

[Statutory Authority: 1986 c 2 § 5. 86-15-008 (Order 86-14), § 173-325-050, filed 7/7/86.]

Chapter 173-326 WAC

COMMERCIAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL--SITE USE PERMITS

WAC

173-326-010	Purpose.
173-326-020	Definitions.
173-326-030	Requirements for users of the Washington commercial low-level radioactive waste disposal site.
173-326-040	Site use permit fee.

WAC 173-326-010 Purpose. The purpose of this chapter is to implement RCW 43.200.080. Each original generator and each broker of low-level radioactive waste (LLRW) shall have a valid and unencumbered site use permit prior to shipment of such waste to, or disposal of such waste at, a commercial LLRW disposal site located in the state of Washington. All low-level radioactive waste received for disposal at a commercial LLRW disposal site in the state of Washington shall be traceable to the original generators and states, regardless of whether the waste is shipped directly from the point of generation to the disposal facility, or shipped through a licensed service facility such as a facility for recycling, processing, compacting, incinerating, collecting, or brokering waste.

[Statutory Authority: RCW 43.200.080. 88-18-098 (Order 88-27), § 173-326-010, filed 9/7/88; 87-14-078 (Order 87-11), § 173-326-010, filed 7/1/87.]

WAC 173-326-020 Definitions. (1) "Low-level radioactive waste" is defined in Public Law 99-240.

[Title 173 WAC—p 520]

(2) "Broker" means a person who performs one or more of the following functions for a low-level radioactive waste generator, provided it shall not mean a carrier whose sole function is to transport such low-level radioactive waste:

(a) Arranges for transportation of the low-level waste;

(b) Collects and/or consolidates shipments of such low-level radioactive waste;

(c) Processes such low-level radioactive waste in some manner.

(3) "Department" means the department of ecology.

(4) "Generator" means the last person who puts radioactive material to practical use, who then declares it to be no longer of use or value.

(5) "P.L. 99-240" means the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985, codified at 42 U.S.C. section 2021b, et. seq.

(6) "Shipment" means the total low-level radioactive waste material transported in one vehicle.

[Statutory Authority: RCW 43.200.080. 87-14-078 (Order 87-11), § 173-326-020, filed 7/1/87.]

WAC 173-326-030 Requirements for users of the Washington commercial low-level radioactive waste disposal site. (1) A site use permit must be obtained prior to:

(a) The shipment of LLRW to a LLRW disposal site.

(b) The disposal of LLRW at a LLRW disposal site.

(2) An application for a site use permit must be filed.

(a) An application for a site use permit shall be filed on department form ECY 010-75.

(b) Each application shall be signed by the applicant.

(3) Number of permits required:

(a) Generators who own multiple facilities within the same state may apply for one permit, provided the same contact person within the generator's company will be responsible for the waste shipments. Otherwise separate permits will be required.

(b) Facilities which are owned by the same generator and located in different states will require separate permits.

(4) A broker must ensure that a generator has a current, unencumbered site use permit prior to shipment of that generator's waste to a commercial LLRW disposal site located in the state of Washington, and that the waste will arrive at the disposal site prior to the expiration date of the generator's permit.

(5) Permittees must provide additional information when requested by the department of ecology as necessary for the safe management of low-level radioactive waste in the state of Washington.

[Statutory Authority: RCW 43.200.080. 88-21-072 (Order 88-41), § 173-326-030, filed 10/18/88; 87-14-078 (Order 87-11), § 173-326-030, filed 7/1/87.]

WAC 173-326-040 Site use permit fee. (1) The permit fee must be submitted at the time of filing an application. The permit fee is not refundable. The fees for a site use permit are:

(a) One-time use permit — \$ 60.00

(b) Multiple use permit — \$175.00 per year

(2) One-time use permit: A generator having radioactive waste for disposal for one time only can obtain a nonrenewable site use permit for such a shipment. This permit terminates upon receipt of the shipment for disposal or one year after it was issued, whichever is earlier, and cannot be reissued to a generator. If the same generator has a subsequent need to ship waste for disposal a multiple use permit must be obtained.

(3) Multiple-use permit: A generator having radioactive waste for disposal more than once can obtain a renewable multiple use permit. A multiple-use permit can be renewed annually. A generator who holds a multiple use permit cannot change the permit to a one-time use permit.

[Statutory Authority: RCW 43.200.080, 88-18-098 (Order 88-27), § 173-326-040, filed 9/7/88; 87-14-078 (Order 87-11), § 173-326-040, filed 7/1/87.]

Chapter 173-330 WAC
USED AUTOMOTIVE OIL RECYCLING SIGN
REQUIREMENTS FOR AUTOMOTIVE OIL
SELLERS

WAC

173-330-010	Purpose.
173-330-020	Applicability.
173-330-030	Definitions.
173-330-040	Responsibility to procure and post sign.
173-330-050	Sign criteria.
173-330-060	Posting and maintenance of signs.
173-330-070	Effective date and compliance.
173-330-900	Logo and sign.

WAC 173-330-010 Purpose. Pursuant to chapter 19.114 RCW it is recognized by the legislature that used automotive oil is a limited resource that can be collected and recycled. Further, improper disposal results in undesirable effects upon the economy and the environment.

These rules provide minimum requirements for the posting and maintaining of durable and legible signs informing the public of proper collection and disposal of used oil.

[Statutory Authority: Chapter 19.114 RCW, 84-16-005 (Order DE 84-24), § 173-330-010, filed 7/19/84.]

WAC 173-330-020 Applicability. All sellers as defined in WAC 173-330-030 shall conform to the provisions of this chapter.

[Statutory Authority: Chapter 19.114 RCW, 84-16-005 (Order DE 84-24), § 173-330-020, filed 7/19/84.]

WAC 173-330-030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Used oil" means automotive oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties.

(2) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, rerefining, reclaiming,

reprocessing, or other means or to use used oil as a substitute for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all laws and rules.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Person" means an individual, private or public corporation, partnership, cooperative, association, estate, municipality, political subdivision or governmental agency or instrumentality.

(6) "Seller" means any person selling oil within the state of Washington who sells 100 gallons or more of automotive oil per year for use off their premises.

[Statutory Authority: Chapter 19.114 RCW, 84-16-005 (Order DE 84-24), § 173-330-030, filed 7/19/84.]

WAC 173-330-040 Responsibility to procure and post sign. It shall be the responsibility of all sellers to procure, post and maintain a sign in accordance with the provisions within this chapter. Signs will be provided by the department.

[Statutory Authority: Chapter 19.114 RCW, 84-16-005 (Order DE 84-24), § 173-330-040, filed 7/19/84.]

WAC 173-330-050 Sign criteria. (1) A sign shall be constructed of white card stock - 80# or of equal or better weight and quality material and:

- a. Be commercially printed;
- b. Be size 11" x 14" or 3" x 5" shelf hangers;
- c. Have type style - Helvetica;
- d. Have type color - Green #345; and
- e. Carry the recycling logo.

(2) ALL SIGNS WILL CARRY THIS MESSAGE:

RECYCLE USED OIL

- * Prevent water pollution
- * Protect public health
- * Reuse limited resources

FOR MORE INFORMATION CALL 1-800-RECYCLE

(3) The sign shall indicate how and where used oil may be properly disposed of including the location and hours of operation of conveniently located used oil collection facilities. This information may be clearly handwritten in an information block on the sign.

(4) The sign shall be substantially in the form shown in WAC 173-330-900 contained herein.

(5) Oil sellers may provide their own signs. Limited variances from the sign criteria will be allowed, subject to the department's approval. Proofs of the seller-provided signs must be submitted to the department for written approval prior to posting.

[Statutory Authority: Chapter 19.114 RCW, 84-16-005 (Order DE 84-24), § 173-330-050, filed 7/19/84.]

WAC 173-330-060 Posting and maintenance of signs. (1) Signs shall be posted in a location visible to the public at or near the point of sale. This location shall

either be at the automotive oil display location within the store, at the cash register or on the exterior window facing.

(2) Signs shall be maintained at the required location and shall remain fully visible and legible at all times.

(3) Requests for replacement of damaged, lost or misplaced signs will be made in a timely manner not to exceed two business days. Seller-provided signs should be replaced as soon as practical but not to exceed 14 days.

[Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-060, filed 7/19/84.]

WAC 173-330-070 Effective date and compliance.

(1) This chapter shall become effective October 1, 1984. Sellers shall post signs in accordance with the provisions of this chapter as of that date.

(2) Sellers shall notify the department in writing by January 1, 1985 of compliance.

[Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-070, filed 7/19/84.]

WAC 173-330-900 Logo and sign.



"IMPROPER DISPOSAL OF USED OIL IS A SIGNIFICANT SOURCE OF WATER POLLUTION, CONTRIBUTES TO THE OVERALL SHORTAGE OF ENERGY RESOURCES AND HAS A DETRIMENTAL IMPACT ON GENERAL PUBLIC HEALTH"

-CHAPTER 173-330 WAC

RECYCLE USED OIL AT:
LOCATION _____
TIMES _____

**FOR MORE INFORMATION CALL
THE WASHINGTON STATE DEPT. OF ECOLOGY
LITTER CONTROL AND RECYCLING PROGRAM
1-800-RECYCLE**

[Statutory Authority: Chapter 19.114 RCW. 84-16-005 (Order DE 84-24), § 173-330-900, filed 7/19/84.]

**Chapter 173-335 WAC
VEHICLE TIRE RECYCLING AND REMOVAL
GRANT REGULATION**

WAC

- 173-335-010 Purpose and authority.
- 173-335-020 Definitions.
- 173-335-030 Relation to other legislation and administrative rules.
- 173-335-040 General.
- 173-335-050 Administration.

WAC 173-335-010 Purpose and authority. The purpose of this chapter is to set forth eligibility criteria

and requirements for the conduct of a vehicle tire recycling and removal program pursuant to RCW 70.95.530. The department shall provide grants to local government for:

- (1) Removal of discarded vehicle tires from unauthorized dump sites;
- (2) Programs and projects that encourage storage, proper disposal, and recycling of discarded vehicle tires, and to stimulate private recycling programs throughout the state.

This chapter is designed to provide assistance to local governments in carrying out these vital functions pursuant to chapter 70.95 RCW.

[Statutory Authority: RCW 70.95.260. 88-17-002 (Order 88-25), § 173-335-010, filed 8/4/88.]

WAC 173-335-020 Definitions. (1) "Department" means the Washington state department of ecology.

(2) "Local governments" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

[Statutory Authority: RCW 70.95.260. 88-17-002 (Order 88-25), § 173-335-020, filed 8/4/88.]

WAC 173-335-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous and solid waste management and disposal.

(2) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

[Statutory Authority: RCW 70.95.260. 88-17-002 (Order 88-25), § 173-335-030, filed 8/4/88.]

WAC 173-335-040 General. (1) The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the allotment of funds during the next biennium.

(2) All grants under this chapter shall be consistent with the provisions of *Financial Guidelines for Grants Management*, WDOE 80-6, May 1980, reprinted March 1982, or subsequent guidelines adopted thereafter.

[Statutory Authority: RCW 70.95.260. 88-17-002 (Order 88-25), § 173-335-040, filed 8/4/88.]

WAC 173-335-050 Administration. (1) Application for funds shall be made on forms provided by the department and shall include detailed information specified in a guidance document also provided by the department. Application information shall include a confirmation of eligibility and a description of the program and budget.

(2) Applicant eligibility

(a) Applicant must be a local government.

(b) Applicant must have, be processing, or have scheduled an update for a local solid waste management plan.

(3) Eligible project costs

Direct costs related to vehicle tire recycling and removal.

(4) Matching requirements

Grants will be made up to seventy-five percent of the total eligible project costs.

(5) Criteria for allocation of funds

Grants are to be awarded on a competitive basis. Applications will be evaluated on the following criteria:

(a) Number of illegally disposed tires;

(b) Solid waste management priorities of chapter 70.95 RCW;

(c) Solid waste plan which involves tires;

(d) Local tire ordinance;

(e) Generation of information;

(f) Innovation.

[Statutory Authority: RCW 70.95.260. 88-17-002 (Order 88-25), § 173-335-050, filed 8/4/88.]

Chapter 173-336 WAC

INITIAL INVESTIGATION REGULATION

WAC

173-336-010 Purpose and authority.

173-336-020 Definitions.

173-336-030 General.

WAC 173-336-010 Purpose and authority. The purpose of this chapter is to establish requirements for the initial investigation of a site reported to the department as a suspected hazardous substance site. The object of the initial investigation is to confirm a report or complaint to the department about a suspected hazardous substance site. The result of the initial investigation is a judgment about the site, to decide whether or not it is a site where a hazardous substance has been released or threatens release and whether or not the site requires further investigation.

RCW 70.105B.030 (2)(b) requires the department to establish a reasonable deadline, not to exceed ninety days, for initiating an investigation of a hazardous substance site after the department has received information that a site may pose a threat to human health or the environment.

The department is, as of July 1988, in the process of developing a set of rules and guidance for the implementation of chapter 70.105B RCW. The department intends to revise this rule in conjunction with the adoption of other final rules to ensure that this rule is consistent, integrated, and coordinated with the set of rules and guidance being developed under chapter 70.105B RCW.

[Statutory Authority: RCW 70.105B.030(2). 88-15-038 (Order 88-20), § 173-336-010, filed 7/15/88.]

WAC 173-336-020 Definitions. (1) "Department" means the department of ecology.

(2) "Environment" means the surface waters, ground-water, drinking water supply, land surface, tidelands, bedlands, subsurface, or ambient air within Washington or under jurisdiction of the state.

(3) "Hazardous substance" means any solid, semi-solid, dissolved solid, liquid, or gaseous material which meets the definition of hazardous substance in RCW 70.105B.020(6).

(4) "Site" means any area or location where a hazardous substance has or may have been deposited, released, disposed of, placed, or otherwise come to be located.

(5) "Release" means any intentional or unintentional discharge, deposit, injection, dumping, pouring, pumping, emission, emptying, leaching, or allowing to seep of a substance into the environment.

[Statutory Authority: RCW 70.105B.030(2). 88-15-038 (Order 88-20), § 173-336-020, filed 7/15/88.]

WAC 173-336-030 General. (1) When the department receives information and has a reasonable basis to believe that there may be a release or a threatened release of a hazardous substance that may pose a threat to human health or the environment, the department shall investigate within ninety days.

(2) An initial investigation shall at a minimum include:

- (a) Site visit;
- (b) Documentation of conditions observed;
- (c) Documentation for any other applicable statute or regulation if appropriate; and
- (d) If necessary, a recommendation for follow-up action.

(3) The department shall not be required to conduct an initial investigation within ninety days when:

- (a) The circumstances associated with the release or threatened release are known and have previously been investigated by the department or another governmental agency; or
- (b) The person potentially liable for a release or threatened release has, in the department's judgment, taken an appropriate remedy; or
- (c) The release is otherwise permitted.

(4) The department may have another governmental agency conduct an initial investigation on its behalf, provided such agency is not suspected to have contributed to the release or threatened release of a hazardous substance.

[Statutory Authority: RCW 70.105B.030(2). 88-15-038 (Order 88-20), § 173-336-030, filed 7/15/88.]

Chapter 173-338 WAC

HAZARD RANKING SYSTEM REGULATION

WAC

173-338-010	Purpose.
173-338-020	Definitions.
173-338-030	Evaluation criteria.
173-338-040	Scoring procedure.
173-338-050	Rescoring.

WAC 173-338-010 Purpose. This regulation implements RCW 70.105B.030 (2)(a) of the Hazardous Waste Cleanup Act of 1987. The purpose of this regulation is to establish criteria for determining priorities among hazardous substance sites and to assure that sites are ranked by a system that objectively and numerically assesses the relative degree of risk to human health and the environment at such sites. The departments of ecology and social and health services shall coordinate in the ranking of hazardous substance sites according to the scoring procedure guidance to be developed. The department of ecology shall use categorical rankings derived from site scores as a primary factor in establishing its remedial action priorities.

The department is, as of July 1988, in the process of developing a set of rules and guidance for the implementation of chapter 70.105B RCW. The department intends to revise this rule in conjunction with the adoption of other final rules to ensure that this rule is consistent, integrated, and coordinated with the set of rules and guidance being developed under chapter 70.105B RCW.

[Statutory Authority: RCW 70.105B.030(2). 88-15-037 (Order 88-5), § 173-338-010, filed 7/15/88.]

WAC 173-338-020 Definitions. When used in this regulation, the following terms have the meanings given below:

(1) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(2) "Bioconcentration potential" means the propensity of a substance to be retained and accumulated in an organism into which it has been absorbed.

(3) "Containment" means a container, vessel, barrier, or structure, whether natural or constructed, by which a hazardous substance is prevented or hindered from release to or migration in the environment.

(4) "Contamination" means the polluting or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or harmful to fish, bird, or other animal or plant life.

(5) "Department" means the department of ecology.

(6) "Environment" means the surface waters, ground-water, drinking water supply, land surface, soils, tidelands, shorelands, sediments, subsurface, or ambient air within Washington or under jurisdiction of the state.

(7) "Exposure" means subjection to the action, influence, or effects of a substance or condition.

(8) "Groundwater" means water in a saturated zone or stratum beneath the surface of land or water.

(9) "Hazardous substance" means any solid, semi-solid, dissolved solid, liquid, or gaseous material which meets the definition of hazardous substance in RCW 70.105B.020(6).

(10) "Hazardous substance site" means any area or location, confirmed through an initial investigation and requiring further investigation, where a hazardous substance has been deposited, released, stored, disposed of, or placed, or otherwise come to be located.

(11) "Mobility" means the capability of a substance to move or be moved from one place to another.

(12) "Persistence" means the tendency of a substance to resist degradation and remain in the atmosphere, soil, and/or water.

(13) "Release" means any intentional or unintentional discharge, deposit, injection, dumping, pouring, pumping, emission, emptying, leaching, or allowing to seep of a substance into the environment.

(14) "Remedial action" means any action or expenditure consistent with the purposes of chapter 70.105B RCW to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment, including investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(15) "Risk" means a measure of the probability and severity of adverse effects caused by the circumstances of the exposure.

(16) "Sensitive environment" means an area of particular environmental value, such as wetlands, critical habitat for endangered or threatened species, national or state wildlife refuge, critical habitat, breeding or feeding area for fish or shellfish, wild or scenic river, rookery, riparian area, big game winter range, or other area of special environmental concern.

(17) "Site" means the same as "hazardous substance site."

(18) "Site inspection" means an on-site survey of a site and may include collection of samples. The purpose is to gather sufficient data at a site or facility and in its vicinity to determine the existence and type of contamination at the site and its potential and actual threat to public health and the environment.

(19) "Solubility" means a measure of the ability of a substance to exist in solution at a specified pressure and temperature, usually expressed in units of mass per unit volume of solvent.

(20) "Surface water" means those portions of Puget Sound, the Strait of Juan de Fuca, the Strait of Georgia, and the Pacific Ocean within the boundaries of Washington or its jurisdiction, and all public or privately owned natural or constructed lakes, bays, rivers, streams, springs, ponds, impoundments, marshes, water courses, and drainage courses within the state or its jurisdiction.

(21) "Toxicity" means a measure of the propensity of a chemical molecule or compound to produce injury once it reaches a susceptible receptor in or on a living organism.

[Statutory Authority: RCW 70.105B.030(2). 88-15-037 (Order 88-5), § 173-338-020, filed 7/15/88.]

WAC 173-338-030 Evaluation criteria. The objective of the site evaluation is to determine, as far as possible at the time of investigation, the actual or potential risk posed by the site to human health and the environment. This assessment considers air, groundwater, and

surface water migration pathways, human and nonhuman exposure targets, properties of the hazardous substances present, and the interaction of these variables. The department shall evaluate each site on a consistent basis considering the following criteria:

(1) Observed or documented release of hazardous substances to the environment at the site.

(2) Documented exposure of human and nonhuman organisms to hazardous substances released at the site, excluding worker exposure to industrial chemicals and residential exposure to residential consumer products.

(3) Identification of hazardous substances on the site, including what was released and/or what products of decomposition, recombination, or chemical reaction are currently present on site, and their quantities or concentrations.

(4) Toxicity of the hazardous substances present at the site to human beings and nonhuman organisms which are or potentially may be affected.

(5) Persistence of the hazardous substances present at the site.

(6) Solubility of the hazardous substances.

(7) Subsurface mobility of the hazardous substances.

(8) Bioconcentration potential of the hazardous substances, relevant to potentially exposed organisms.

(9) The hazardous substances' airborne mobility potential, as particulate matter and as vapor.

(10) Quality of containment of the hazardous substances, whether natural or constructed, including impermeable substrata, surface impoundments, storage tanks and containers, waste piles, landfills, and handling techniques, where relevant.

(11) Runoff potential at the site, including:

(a) Type of surface soil;

(b) Surface permeability at the site;

(c) Overland distance of a course that runoff might follow from the site to the nearest downhill body of surface water;

(d) The site's location relative to 100-year, 50-year, and 25-year floods.

(12) Precipitation at the site, including:

(a) Annual precipitation;

(b) Maximum 24-hour rainfall in any twenty-five year period;

(c) Net annual or seasonal precipitation, as precipitation less evaporation.

(13) Human population currently or potentially affected by surface water or groundwater contamination caused by the site through drinking water, nondrinking residential use, or recreational use, and its distance from the site.

(14) Critical aquatic habitats, fishery resources, critical wildlife habitats, recreation areas, agricultural or forest lands, irrigated areas, parks, and sensitive environments currently or potentially affected by groundwater or surface water contamination caused by the site, and their respective distances from the site.

(15) Characterization of the subsurface and groundwater actually or potentially affected by the site, including:

- (a) Permeability of the unsaturated zone at or beneath the site;
- (b) Usage of the water from the aquifers at or beneath the site;
- (c) Depth to the aquifers below the site;
- (d) Distance from the site to the nearest wells.

(16) Human population, recreation areas, parks, sensitive environments, agricultural or harvestable forest land, critical wildlife habitats, and aquatic resources actually or potentially affected by airborne contaminants from the site, and their respective air route distances from the site.

(17) Natural sedimentation rate at the site.

(18) Degree of current or potential exposure of aquatic and benthic populations to contaminants on site.

(19) Any other physical factors which may be significant in estimating the potential or current exposure to sensitive biota.

[Statutory Authority: RCW 70.105B.030(2). 88-15-037 (Order 88-5), § 173-338-030, filed 7/15/88.]

WAC 173-338-040 Scoring procedure. Evaluation of each site shall be done jointly by the department of ecology and department of social and health services, according to guidance provided by the department which shall include a detailed scoring manual and worksheets. The scoring procedure and major amendments to the guidance shall be reviewed by the science advisory board, established pursuant to RCW 70.105B.030(4). A primary objective is consistent application of the scoring method. The scoring manual shall include, but not necessarily be limited to, the following information:

- (1) Scoring and categorical ranking instructions.
- (2) Data requirements for each evaluation criterion.
- (3) Scoring values for each data item.
- (4) Algorithms for each evaluation section and the overall score.
- (5) Guidelines for application of the scoring values for particular cases and circumstances.
- (6) Instructions for prescreening the data to ensure their completeness before scoring a site.
- (7) Reference documentation for data items where applicable.
- (8) Scoring worksheets.
- (9) Documentation procedures.
- (10) Quality assurance guidelines.
- (11) Audit procedures.

[Statutory Authority: RCW 70.105B.030(2). 88-15-037 (Order 88-5), § 173-338-040, filed 7/15/88.]

WAC 173-338-050 Rescoring. The department may, at its discretion, rescore a site if, before cleanup action is begun at the site, the receipt of additional information within the scope of the evaluation criteria indicates a significant change in score may result.

[Statutory Authority: RCW 70.105B.030(2). 88-15-037 (Order 88-5), § 173-338-050, filed 7/15/88.]

[Title 173 WAC—p 526]

Chapter 173-340 WAC HAZARDOUS WASTE CLEANUP SETTLEMENT PROCEDURES

WAC

173-340-010	Purpose.
173-340-020	Definitions.
173-340-030	Emergency actions.
173-340-040	Settlement procedures.
173-340-050	State conducted remedial action—Notice.

WAC 173-340-010 Purpose. These regulations implement RCW 70.105B.070 which requires that the department provide, by rule, procedures by which potentially liable persons may propose and negotiate settlement agreements for releases or threatened releases of hazardous substances that require remedial action. These regulations provide for public notice and an opportunity to comment on proposed settlements and establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.

[Statutory Authority: Chapter 70.105B RCW. 88-13-036 (Order 88-40), § 173-340-010, filed 6/8/88.]

WAC 173-340-020 Definitions. (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or such person authorized to act for the director.

(3) "Final cleanup" means a remedial action which will achieve cleanup levels required by RCW 70.105B.060.

(4) "Potentially liable person" means any person whom the department finds, based upon credible evidence, to be liable under RCW 70.105B.040.

(5) "Remedial action" or "remedy" means any action or expenditure consistent with the purposes of chapter 70.105B RCW to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health. This definition includes, but is not limited to, the remedial investigation/feasibility study and the remedial design/remedial action implementation defined in subsections (6) and (7) of this section.

(6) "Remedial investigation/feasibility study" means:

(a) A remedial investigation to gather the data necessary and sufficient to: Determine the nature and extent of a release or threatened release of a hazardous substance; establish target cleanup levels and monitoring methods; identify remedial action alternatives; and support the technical and cost analyses of the alternatives; and

(b) A feasibility study which includes: An evaluation of the technical, environmental, and economic aspects of alternative remedial actions; a recommendation for the preferred remedial action; and cost estimates and a preliminary construction schedule for the remedial action.

(7) "Remedial design/remedial action implementation" means:

(a) An action where the selected remedy is clearly designed and/or specified in accordance with engineering criteria, for example, site action plan, relocation plan, or engineering drawings and specifications, in a bid package, enabling immediate implementation of the remedy; and

(b) The implementation of a remedial action, normally following design, of the selected source control and/or off-site remedial measure. Remedial action implementation may include, but is not limited to, final cleanup.

[Statutory Authority: Chapter 70.105B RCW. 88-13-036 (Order 88-40), § 173-340-020, filed 6/8/88.]

WAC 173-340-030 Emergency actions. (1) The provisions of this chapter shall not apply if the director determines, pursuant to RCW 70.105B.110 and 70.105B.120, that an emergency or imminent danger exists which requires immediate remedial action to protect human health or the environment.

(2) Nothing in this chapter shall be construed to limit the authority of the department, its employees, agents or contractors to take appropriate action in the event of an emergency or imminent danger to human health or the environment.

[Statutory Authority: Chapter 70.105B RCW. 88-13-036 (Order 88-40), § 173-340-030, filed 6/8/88.]

WAC 173-340-040 Settlement procedures. (1) The department encourages persons to investigate and clean up sites for which they are responsible. Any potentially liable person wishing to enter into a settlement with the department for remedial action may request the department to initiate the procedures described in subsections (3) through (9) of this section. The procedures described in subsections (3) through (9) of this section shall not be considered the exclusive procedures for settlement under chapter 70.105B RCW. The department may agree to use alternate procedures consistent with chapter 70.105B RCW which are proposed by potentially liable persons. The alternate procedures must be approved by the director.

(2) Prior to the issuance of special notice letters under this section, the department encourages ongoing discussions and exchanges of information between the department and persons who might be potentially liable regarding those sites which the department has reason to believe may require remedial action.

(3) Special notice letters. When the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, and when the department is prepared to proceed with settlement procedures, it shall issue special notice letters to the potentially liable persons. Special notice letters shall be signed by the director and sent via certified mail, return receipt requested, or by personal service. The department shall not be required to issue special notice letters to potentially liable persons under this chapter if

notice letters have been issued prior to the effective date of these regulations.

(4) Contents of special notice letters.

(a) Special notice letters shall include the following:

(i) A statement informing the recipient that the department has identified that person as a potentially liable person under chapter 70.105B RCW or other applicable laws regarding the release of hazardous substances;

(ii) A statement that the department has determined that remedial action will be required to protect human health or the environment;

(iii) Identification of the site where there is a release or threatened release of hazardous substances and, to the extent known by the department, the nature of such hazardous substances;

(iv) The proposed elements of the scope of work for remedial action required at the site; and

(v) A list of all potentially liable persons identified by the department who are also receiving special notice letters concerning the site.

(b) Special notice letters may include a draft consent decree and other information as appropriate under the circumstances.

(c) Special notice letters shall require the potentially liable person to submit, within thirty days of receipt, a written response to the department via certified mail or by personal service. The written response shall include the following:

(i) A statement indicating whether or not the potentially liable person wishes to proceed with the settlement procedures defined in this chapter and intends to submit a good faith offer for undertaking or financing remedial actions required at the site; and

(ii) The name, address, and phone number of a representative who is authorized to negotiate on behalf of the potentially liable person. Submission of a written response as required by this subsection is not an admission of liability.

(d) The department may extend the deadline for response to the special notice letter and provide additional time as it deems appropriate.

(5) Good faith offers.

(a) The potentially liable persons, individually or collectively, shall submit a good faith offer to the department within sixty days of receipt of a special notice letter.

(b) A good faith offer shall provide a sufficient basis for further negotiations and shall consist of:

(i) A response to each proposed element of the scope of work accompanying the special notice letter;

(ii) A paragraph by paragraph response to any draft consent decree accompanying the special notice letter;

(iii) A statement of willingness to conduct or finance a remedial action as described in the response to the proposed elements of the scope of work and any draft consent decree accompanying the special notice letter;

(iv) A demonstration of the technical capability of the potentially liable person(s) to undertake the remedial action. This will require that the potentially liable

person(s) identify whom they expect to conduct the remedial actions required or the process they will undertake to select a qualified firm; and

(v) A demonstration of the capability of the potentially liable person(s) to finance the remedial action required.

(c) The department will determine whether or not the offer submitted constitutes a good faith offer. If the department determines the offer submitted under this subsection is not a good faith offer, it shall notify the potentially liable person(s) who submitted the offer.

(d) The department may extend the deadline for receipt of a good faith offer and provide additional time as it deems appropriate.

(6) Negotiation period.

(a) Following the department's determination that it has received a good faith offer, the department shall negotiate with the potentially liable person(s) to reach a settlement agreement within a period not to exceed:

(i) In the case of a remedial investigation/feasibility study, ninety days from the date of receipt of the special notice letter; and

(ii) In the case of a remedial design/remedial action implementation, one hundred twenty days from the date of receipt of the special notice letter.

(b) The department may extend the period of negotiation and provide additional time as it deems appropriate.

(c) The department shall negotiate with the potentially liable person(s) to achieve reasonable deadlines for investigating and remedying releases or threatened releases at the site. The department shall ensure that cleanup levels required under RCW 70.105B.060 are attained.

(d) The department may negotiate with the potentially liable person(s) to reach a settlement agreement which addresses one or more stages or elements of remedial action. Such stages or elements include, but are not limited to, remedial investigation, feasibility studies, remedial design, remedial action implementation, or components thereof.

(7) Final settlement offer procedures.

(a) This subsection applies only when the special notice letter has required final cleanup as defined in WAC 173-340-020(3).

(b) The potentially liable persons, individually or collectively, may submit a final settlement offer for final cleanup and any supporting material for consideration by the department. A final settlement offer must be received by the department no later than ten days after:

(i) The potentially liable person(s) fail to state in writing that they wish to proceed with the settlement process in accordance with subsection (4) of this section;

(ii) A determination is made by the department that a good faith offer has not been received as required by subsection (5) of this section; or

(iii) The negotiation period has expired in accordance with subsection (6) of this section.

(c) Upon receipt of a final settlement offer provided for in this subsection, the department shall prepare a

notice of receipt of a final settlement offer and its availability for public review and invite public comments. The notice shall be published, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(d) The department shall receive written comments on the final settlement offer for at least thirty days from the date of publication.

(e) If the department accepts the final settlement offer, it shall file it as a proposed consent decree in accordance with subsection (8) of this section.

(f) If the department rejects the final settlement offer, it shall state its reasons for rejection to the potentially liable person(s) via certified mail, return receipt requested, or by personal service.

(8) Consent decree procedures.

(a) Upon agreement between the department and the potentially liable person(s) for voluntary remedial action, a proposed consent decree shall be filed promptly with the appropriate superior court or the federal court having jurisdiction over the matter.

(b) Upon filing a proposed consent decree, the department shall prepare a public notice. Such notice shall inform the public that an agreement has been reached, state its availability for public review and invite public comments. This notice shall be placed, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(c) The department shall receive written comments for at least thirty days from the date on which the proposed consent decree was filed with the court. The department shall file with the court all written comments received within the public comment period.

(d) If the parties agree to substantial changes to the proposed consent decree, the department shall place a notice in, at a minimum, one newspaper of general circulation in the vicinity of the site. Such notice shall inform the public that an agreement has been reached which substantially differs from that previously subjected to public comment. It shall also state that the revised proposed consent decree is available for public review and invite public comment. Comments shall be received for at least thirty days and shall be filed by the department with the court.

(9) Enforcement. The department may terminate settlement procedures and proceed with an enforcement action against a potentially liable person as provided in RCW 70.105B.120 or other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b) under the following circumstances:

(a)(i) When the potentially liable person fails to state in writing, in accordance with subsection (4) of this section, that it wishes to proceed with the settlement procedures; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(b) If the department determines that:

(i) A good faith offer has not been received from the potentially liable person in accordance with subsection (5) of this section; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(c)(i) If no settlement is reached with the potentially liable person within the time periods specified in subsection (6) of this section; and

(ii) The final settlement offer procedures in subsection (7) of this section do not apply; or

(d) If the department does not receive a final settlement offer from the potentially liable person in accordance with subsection (7) of this section.

[Statutory Authority: Chapter 70.105B RCW. 88-13-036 (Order 88-40), § 173-340-040, filed 6/8/88.]

WAC 173-340-050 State conducted remedial action--Notice. (1) Upon determination by the department to conduct remedial action, the department may prepare a proposed scope of work as provided in RCW 70.105B-.120 (7)(a).

(2) Upon preparation of a scope of work for state conducted remedial action, the department may publish a notice of its proposed scope of work, at a minimum, in one newspaper of general circulation in the vicinity of the site and indicate where the scope of work is available for review. Upon publication of such notice, comments shall be received for thirty days. Following receipt of comments, the department may revise the scope of work to include such comments or adopt its proposed scope of work as final.

[Statutory Authority: Chapter 70.105B RCW. 88-13-036 (Order 88-40), § 173-340-050, filed 6/8/88.]

Chapter 173-400 WAC

GENERAL REGULATIONS FOR AIR POLLUTION SOURCES

WAC

173-400-010	Purpose.
173-400-020	Applicability.
173-400-030	Definitions.
173-400-040	General standards for maximum emissions.
173-400-050	Minimum emission standards for combustion and incineration units.
173-400-060	Minimum emission standards for general process emissions units.
173-400-070	Minimum standards for certain source categories.
173-400-075	Emission standards for sources emitting hazardous air pollutants.
173-400-100	Registration.
173-400-105	Records and reporting.
173-400-110	New source review.
173-400-115	Standards of performance for new sources.
173-400-120	Monitoring and special report.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-400-080	Compliance schedules. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-080, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-080, filed 5/8/79; Order DE 76-38, § 173-400-080, filed 12/21/76. Formerly WAC 18-04-080.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
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173-400-090 Sensitive area designation. [Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-090, filed 8/20/80; Order DE 76-38, § 173-400-090, filed 12/21/76. Formerly WAC 18-04-090.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-130 Regulatory actions. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-130, filed 5/8/79; Order DE 76-38, § 173-400-130, filed 12/21/76. Formerly WAC 18-04-130.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-135 Criminal penalties. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-135, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-140 Appeals. [Order DE 76-38, § 173-400-140, filed 12/21/76. Formerly WAC 18-04-140.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-150 Variance. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-150, filed 5/8/79; Order DE 76-38, § 173-400-150, filed 12/21/76. Formerly WAC 18-04-150.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-160 Maintenance of pay. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-160, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

173-400-170 Requirements for boards and director. [Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-170, filed 5/8/79.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

WAC 173-400-010 Purpose. (1) It is the policy of the department of ecology under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and progressive reduction where needed.

(2) It is the purpose of this chapter to establish standards deemed to be technically feasible and reasonably attainable and revise such standards as new information and better technology are developed and become available.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-010, filed 4/15/83; Order DE 76-38, § 173-400-010, filed 12/21/76. Formerly WAC 18-04-010.]

WAC 173-400-020 Applicability. The provisions of this chapter shall apply state-wide. An activated air pollution control authority may enforce this chapter and may in addition adopt standards or requirements which are equivalent to or more stringent than standards or requirements on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except:

(1) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(2) Automobiles, trucks, aircraft.

(3) Those sources under the jurisdiction of the energy facility site evaluation council.

The requirements of chapter 173-403 WAC shall apply to all sources that are subject to the requirements of chapter 173-400 WAC.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-020, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-020, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-020, filed 5/8/79; Order DE 76-38, § 173-400-020, filed 12/21/76. Formerly WAC 18-04-020.]

WAC 173-400-030 Definitions. Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to this chapter only as defined below:

(1) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(2) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

(3) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(4) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

(5) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(6) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is a type of fugitive emission.

(7) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means excluding combustion.

(8) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(9) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

(10) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(11) "Open burning" means the combustion of material in an open fire or in an outdoor container, without

providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(12) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

[Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-030, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-030, filed 5/8/79; Order DE 76-38, § 173-400-030, filed 12/21/76. Formerly WAC 18-04-030.]

WAC 173-400-040 General standards for maximum emissions. All sources and emissions units are required to meet the emission standards of this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department or cognizant local authority shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or sources for installation of RACT.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the department or cognizant local authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, an adjusted time limit may be allowed at the discretion of the department or cognizant local authority.

(2) Preventing particulate matter from being deposited. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) Fugitive emissions. The owner or operator of any emissions unit involving materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonably available control technology to control emissions of the contaminants for which nonattainment has been designated. Significance will be determined by EPA interpretive ruling for PSD and offsets on file with the department.

(4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) Emission of air contaminants detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source, including any air contaminant whose emission is not otherwise prohibited by this chapter, if the air contaminant causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.

(6) Sulfur dioxide.

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except as follows:

(a) When the owner or operator of an emissions unit supplies emission data and can demonstrate to the department or cognizant local authority that there is no feasible method of reducing the concentration to less than one thousand ppm and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the department or authority may require the owner or operator to equip, operate, and maintain continuous ambient air monitoring stations at locations approved by the department or authority and using equipment approved by the department or authority. All sampling results will be made available upon request and a monthly summary will be submitted to the department or authority.

(b) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the department or cognizant local authority, as permitted by WAC 173-403-140.

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive dust sources.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner or operator of any existing source of fugitive dust that has been identified as a significant contributor to the nonattainment status of a designated nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by EPA interpretive ruling for PSD and offsets as on file with the department.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-040, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-040, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-040, filed 5/8/79; Order DE 76-38, § 173-400-040, filed 12/21/76. Formerly WAC 18-04-040.]

WAC 173-400-050 Minimum emission standards for combustion and incineration units. (1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit utilizing the combustion of wood for the production of steam, no person shall allow or permit the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by procedures on file at the department.

(2) For any incinerator, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file at the department. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from the department or cognizant local authority.

(3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, except when the department or cognizant local authority may determine that an alternate oxygen correction factor is appropriate.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-050, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-050, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-050, filed 5/8/79; Order DE 76-38, § 173-400-050, filed 12/21/76. Formerly WAC 18-04-050.]

WAC 173-400-060 Minimum emission standards for general process emissions units. General process units shall be required to meet all applicable provisions of WAC 173-400-040 above and in addition, no person

shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-060, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-060, filed 8/20/80; Order DE 76-38, § 173-400-060, filed 12/21/76. Formerly WAC 18-04-060.]

WAC 173-400-070 Minimum standards for certain source categories. The department finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the minimum standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7).

(b) All wigwam burners shall use reasonably available control technology. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by the department or cognizant local authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) The department may establish additional requirements for wigwam burners located, or proposed for location, in sensitive areas as defined by chapter 18-06 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance with WAC 173-400-040(1) if they meet the requirements contained therein except during a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply best available control technology (BACT).

(iii) A requirement to reduce or eliminate emissions if the department establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. As such, this practice is to be scheduled for the same

specific times each day and the department or cognizant local authority shall be notified as to the schedule.

(b) All hog fuel boilers shall utilize reasonably available control technology. All emissions units shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It shall be unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and in addition:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize reasonably available control technology. All emissions units shall be operated and maintained to minimize emissions.

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced, the production being expressed as one hundred percent H₂SO₄.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-070, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-070, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-070, filed 5/8/79; Order DE 76-38, § 173-400-070, filed 12/21/76. Formerly WAC 18-04-070.]

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) The emission standards for asbestos, benzene from fugitive emission sources, beryllium, beryllium rocket motor firing, mercury and vinyl chloride promulgated by the United States Environmental Protection Agency prior to October 1, 1984, as contained in Title 40, Code of Federal Regulations, Part 61, are by this reference adopted and

incorporated herein. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or cognizant local authority.

(2) The department or cognizant local authority, at any time after the effective date of this section, may conduct source tests and require access to records, books, files and other information specific to the control, recovery or release of asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring and analytical methods for sources of asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61, as promulgated prior to October 1, 1984.

(4) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

(5) Arsenic standards.

(a) The owner or operator of any source which emits five tons or more of arsenic per year shall:

(i) Use best available technology (BAT) to control fugitive emissions of arsenic, so that community exposure standards are not exceeded outside of the property controlled by the owner or operator of the source.

As used herein BAT means the best controls and work practices available considering economic, energy and environmental impacts. The level of control that represents BAT may be different for new and existing sources within a source category because of higher costs associated with retrofitting controls on existing sources, or differences in control technology for new vs. existing sources.

(ii) Establish and operate monitoring facilities for arsenic at sites approved by the department or cognizant local authority. Such sites shall be representative of areas of potential maximum concentrations to which the public may be exposed.

(iii) Report as soon as possible but within thirty days, or in accordance with an approved work plan, to the department or cognizant local authority any exceedance of the following interim community exposure standards at any arsenic monitoring site:

Maximum 24-hour concentration - 2.0 micrograms arsenic (expressed as As) per cubic meter.

Maximum annual arithmetic mean - 0.3 micrograms arsenic (expressed as As) per cubic meter.

(iv) Maintain daily logs and records of the time and nature of activities that may release fugitive emissions of arsenic.

(v) Complete an evaluation of the cause of such exceedance within thirty days of the report of such exceedance.

(vi) Submit a work plan to the department for the identification and evaluation of fugitive arsenic emissions that is satisfactory to the department or cognizant local authority. The plan is required within thirty days after the effective date of this regulation. The work plan shall include but not be limited to an identification and evaluation of fugitive emission sources, including operating and maintenance procedures, siting of arsenic monitoring stations, a description of sampling equipment, analytical techniques, quality assurance, schedules of sampling, a program to record meteorological conditions at time of sampling, techniques used to evaluate and determine causes of exceedances, and quarterly reports of progress toward implementing the plan. For the arsenic manufacturing process as a whole, this shall include an evaluation of the feasibility of producing As_2O_3 through a chemical leaching process rather than roasting. The work plan shall be implemented within one year. Subparagraphs (ii), (iii), (iv), and (v) shall not impose additional requirements on the source to the extent that such requirements are included in the work plan.

(b) The standards set forth in (a)(iii) of this subsection are intended as interim community exposure standards. As more information becomes available it is anticipated that these standards will be reviewed.

(c) During this interim period the department shall periodically review all monitoring records and plant logs to determine the need for and practicability of additional emission controls, monitoring stations or adjustment to the above standards. Whenever the cause of any exceedance can be attributed to a specific source, process, operation or work practice, the owner or operator thereof shall install or adopt corrective measures which constitute best available technology as soon as possible, to prevent a recurrence. The department or cognizant local authority shall determine if additional measures can be taken to control fugitive emissions of arsenic, and if so shall establish additional BAT requirements and a compliance program. Thereafter the department shall establish such final standards as appropriate to require, monitor and regulate the application of BAT for fugitive emissions of arsenic.

(d) Failure of a source to comply with any provision of subsection (5) of this section or any order issued by the department or cognizant local authority pursuant to WAC 173-400-075, shall constitute cause for enforcement action per WAC 173-403-170 or 173-403-180.

(e) Nothing in these regulations shall relieve the owner or operator of any source to which any part of these regulations may apply from complying with any other rule, regulation, order, statute, or ordinance to which said source may be subject.

[Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-075, filed 3/6/85. Statutory Authority: Chapter 70.94 RCW. 84-10-019 (Order DE 84-8), § 173-400-075, filed 4/26/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-075, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-075, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-075, filed 5/8/79; Order DE 76-38, § 173-400-075, filed 12/21/76. Formerly WAC 18-04-075.]

WAC 173-400-100 Registration. The owner or operator of each source within the following source categories shall register the source with the department unless such registration is required by the cognizant local authority:

- (1) Agricultural drying and dehydrating operations;
- (2) Asphalt plants;
- (3) Beverage can surface coating operations;
- (4) Bulk gasoline terminals;
- (5) Cattle feedlots with facilities for one thousand or more cattle;
- (6) Chemical plants;
- (7) Ferrous foundries;
- (8) Fertilizer plants;
- (9) Flexible vinyl and urethane coating and printing operations;
- (10) Grain handling, seed processing, pea and lentil processing facilities;
- (11) Metallic mineral processing plants;
- (12) Mineralogical processing plants;
- (13) Nonferrous foundries;
- (14) Other metallurgical processing plants;
- (15) Petroleum refineries;
- (16) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;
- (17) Pressure sensitive tape and label surface coating operations;
- (18) Rendering plants;
- (19) Scrap metal operations;
- (20) Synthetic organic chemical manufacturing industries;
- (21) Sulfuric acid plants;
- (22) Synthetic fiber production facilities;
- (23) Veneer dryers;
- (24) Wood waste incinerators including wigwam burners;
- (25) Other incinerators designed for a capacity of one hundred pounds per hour or more;
- (26) Stationary internal combustion engines rated at five hundred horse power or more;
- (27) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;
- (28) Any category of stationary sources to which a federal standard of performance (NSPS) applies;
- (29) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);
- (30) Any major source or major emissions unit.

Registration shall be on forms to be supplied by the department or local authority within the time specified thereon.

A report of closure shall be filed with the department whenever operations producing emissions are permanently ceased at any source within the above categories.

[Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-100, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-100, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-100, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012

(Order DE 78-21), § 173-400-100, filed 5/8/79; Order DE 76-38, § 173-400-100, filed 12/21/76. Formerly WAC 18-04-100.]

WAC 173-400-105 Records and reporting. (1) The owner or operator of a stationary source listed in a source category of WAC 173-400-100 shall upon notification by the director, maintain records on the type and quantity of emissions from the source and other information deemed necessary by the director to determine whether the source is in compliance with applicable emission limitations and control measures.

(2) The information recorded pursuant to subsection (1) of this section shall be reported to the department as directed.

(3) When the director determines that recordkeeping and reporting of emission data from any stationary source not listed in WAC 173-400-100 is needed for the investigation or control of air pollution or otherwise necessary to effectuate the purposes of the Washington Clean Air Act (chapter 70.94 RCW), the director shall notify the owner or operator of the source. This notification shall constitute an order to maintain records and submit reports on emissions as set forth in subsections (1) and (2) of this section.

[Statutory Authority: Chapter 70.94 RCW. 87-20-019 (Order 87-12), § 173-400-105, filed 9/30/87.]

WAC 173-400-110 New source review. Construction shall not commence, on any new source that is required to register per WAC 173-400-100, until a notice of construction has been approved per WAC 173-403-050. The owner or operator of any source that is required to register per WAC 173-400-100 shall notify the department or cognizant local authority prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department or authority may determine that a notice of construction is required.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-110, filed 4/15/83. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-002 (Order DE 80-53), § 173-400-110, filed 1/8/81. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-110, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-110, filed 5/8/79; Order DE 76-38, § 173-400-110, filed 12/21/76. Formerly WAC 18-04-110.]

WAC 173-400-115 Standards of performance for new sources. Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as promulgated prior to October 1, 1984, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or cognizant local authority.

(1) Sections 60.5 and 60.6 of Title 40, Code of Federal Regulations, are not incorporated herein because they provide for preconstruction review of new sources only on request. By virtue of WAC 173-403-050, such

review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new source may commence.

(2) As of October 1, 1984, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

Subpart D	Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts	Subpart EE	Industrial surface coating: Metal furniture
Subpart Da	Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts	Subpart GG	Stationary gas turbines
Subpart E	Incinerators	Subpart HH	Lime manufacturing plants
Subpart F	Portland cement plants	Subpart KK	Lead acid batteries
Subpart G	Nitric acid plants	Subpart LL	Metallic mineral processing plants
Subpart H	Sulfuric acid plants	Subpart MM	Automobile and light duty truck surface coating operations
Subpart I	Asphalt concrete plants	Subpart NN	Phosphate rock plants
Subpart J	Petroleum refineries which produce less than 25,000 barrels per day of refined products	Subpart PP	Ammonium sulfate manufacture
Subpart K	Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons	Subpart QQ	Publication rotogravure printing
Subpart Ka	Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons	Subpart RR	Pressure sensitive tape and label surface coating operations
Subpart L	Secondary lead smelters	Subpart SS	Industrial surface coating: Large appliances
Subpart M	Brass and bronze ingot production plants	Subpart TT	Industrial surface coating: Metal coils
Subpart N	Iron and steel plants	Subpart UU	Asphalt processing and asphalt roofing manufacture
Subpart O	Sewage treatment plants	Subpart VV	SOCMI equipment leaks (VOC)
Subpart P	Primary copper smelters	Subpart WW	Beverage can surface coating operations
Subpart Q	Primary zinc smelters	Subpart XX	Bulk gasoline terminals
Subpart R	Primary lead smelters	Subpart FFF	Flexible vinyl and urethane coating and printing
Subpart T	Phosphate fertilizer industry: Wet process phosphoric acid plants	Subpart GGG	Petroleum refineries - compressors and fugitive emission sources
Subpart U	Phosphate fertilizer industry: Superphosphoric acid plants	Subpart HHH	Synthetic fiber production facilities
Subpart V	Phosphate fertilizer industry: Diammonium phosphate plants		
Subpart W	Phosphate fertilizer industry: Triple superphosphate plants		
Subpart X	Phosphate fertilizer industry: Granular triple superphosphate storage facilities		
Subpart Y	Coal preparation plants		
Subpart Z	Ferroalloy production facilities		
Subpart AA	Steel plants: Electric arc furnaces		
Subpart CC	Glass manufacturing plants		
Subpart DD	Grain elevators		

Compliance with the standards for affected facilities within these source categories shall be determined by performance tests and visual observations of opacity as set forth in the regulations adopted by reference hereby.

[Statutory Authority: RCW 70.94.331, 70.94.395 and 70.94.510. 85-06-046 (Order 84-48), § 173-400-115, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-400-115, filed 4/15/83; 82-16-019 (Order DE 82-20), § 173-400-115, filed 7/27/82. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-115, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-115, filed 5/8/79; Order DE 76-38, § 173-400-115, filed 12/21/76. Formerly WAC 18-04-115.]

WAC 173-400-120 Monitoring and special report.

(1) Monitoring. The department shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director or his authorized representative may require any source under the jurisdiction of the department to conduct stack and/or ambient air monitoring and to report the results to the department.

(2) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the director or authorized personnel from a cognizant local authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(3) Source testing. In order to demonstrate compliance with this chapter, the department, may require that

a test be made of the source using procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of an emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(4) Report of startup, shutdown, breakdown or upset condition. If a startup, shutdown, breakdown or upset condition occurs which could result in an emissions violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(a) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department or cognizant local authority in advance of its occurrence.

(b) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department or cognizant local authority as soon as possible.

Upon request of the department or cognizant local authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-400-120(4) does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this chapter nor from the resulting liabilities for failure to comply.

(5) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned; or

(C) Only oil or a mixture of oil and gas is burned and opacity and particulate regulations can be met without using particulate collection equipment; and, the source has never, through any administrative or judicial procedure, been found in violation of any visible emission standard.

(ii) Sulfur dioxide, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input, or

(B) Sulfur dioxide control equipment has not been installed.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as

reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the department or cognizant local authority by the owner or operator.

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where:

Steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of WAC 173-400-120 (5)(e) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by WAC 173-400-120 (5)(d) shall be subject to approval by the department.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to the department or cognizant local authority compliance with the equipment and performance specifications and observe the reporting requirements contained in Title 40, Code of Federal Regulations, Part 51, Appendix P, Sections 3, 4 and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein.

(f) All sources subject to this chapter shall procure and install equipment and commence monitoring and recording activities no later than eighteen months after adoption of this chapter by the department. Any extension to this time requirement shall be negotiated through the variance procedure of WAC 173-400-150.

(g) Special considerations. If for reason of physical plant limitations or extreme economic situations, the department determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(h) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.

(ii) Not subject to an applicable emission standard.

(iii) Scheduled for retirement within five years after inclusion of monitoring equipment requirements in this chapter, provided that adequate evidence and guarantees are provided that clearly show that the source will cease operations prior to that date.

(i) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting

requirements of this chapter during periods of monitoring system malfunctions provided that the source owner or operator shows to the satisfaction of the department or cognizant local authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Emission inventory. The owner or operator of any air contaminant source shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology or cognizant local authority. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, volatile organic compounds, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at maximum capacity. The report shall include the average sulfur content of any fuel or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

(7) Change in raw materials or fuels. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by WAC 173-400-120(6) shall require the submittal of sufficient information to the department or authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The department or cognizant local authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-400-120, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-400-120, filed 4/15/83. Statutory Authority: RCW 70.94.331. 80-11-059 (Order DE 80-14), § 173-400-120, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-012 (Order DE 78-21), § 173-400-120, filed 5/8/79; Order DE 76-38, § 173-400-120, filed 12/21/76. Formerly WAC 18-04-120.]

Chapter 173-402 WAC

CIVIL SANCTIONS UNDER WASHINGTON CLEAN AIR ACT

WAC

- 173-402-010 Prior regulations.
173-402-020 Subsequent regulations.

WAC 173-402-010 Prior regulations. No standard, limitation or requirement of any kind applicable to air contaminant sources and in force at the effective date of this chapter shall be construed to require any element of *scienter* before civil sanctions available under the Washington Clean Air Act can be imposed.

[Statutory Authority: RCW 70.94.040, 70.94.141 and 70.94.331. 80-08-024 (Order DE 80-23), § 173-402-010, filed 6/24/80.]

WAC 173-402-020 Subsequent regulations. No standard, limitation or requirement of any kind applicable to air contaminant sources and adopted after the effective date of this chapter shall be construed to require any element of *scienter* before civil sanctions available under the Washington Clean Air Act can be imposed, except to the extent that a *scienter* requirement is provided for expressly.

[Statutory Authority: RCW 70.94.040, 70.94.141 and 70.94.331. 80-08-024 (Order DE 80-23), § 173-402-020, filed 6/24/80.]

Chapter 173-403 WAC

IMPLEMENTATION OF REGULATIONS FOR AIR CONTAMINANT SOURCES

WAC

- 173-403-010 Policy and purpose.
173-403-020 Applicability.
173-403-030 Definitions.
173-403-050 New source review (NSR).
173-403-060 Bubble rules.
173-403-070 Issuance of emission reduction credits.
173-403-075 Use of emission reduction credits.
173-403-080 Prevention of significant deterioration (PSD).
173-403-090 Retrofit requirements for visibility protection.
173-403-100 Compliance schedules.
173-403-110 Public involvement.
173-403-120 Variance.
173-403-130 Requirements for nonattainment areas.
173-403-141 Creditable stack height and dispersion techniques.
173-403-145 Adjustment for atmospheric conditions.
173-403-150 Maintenance of pay.
173-403-160 Requirements for boards and director.
173-403-170 Regulatory actions.
173-403-180 Criminal penalties.
173-403-190 Appeals.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-403-140 Use of dispersion techniques. [Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-140, filed 4/11/83.] Repealed by 86-23-014 (Order 86-30), filed 11/10/86. Statutory Authority: RCW 70.94.331.

WAC 173-403-010 Policy and purpose. (1) It is the policy of the department of ecology under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and progressive reduction where needed.

(2) It is the purpose of this chapter to establish procedures for the implementation of regulations and rules generally applicable to the control and/or prevention of the emission of air contaminants.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-010, filed 4/11/83. Formerly WAC 18-60-010.]

WAC 173-403-020 Applicability. This chapter cancels and supersedes chapter 18-60 WAC. The provisions of this chapter shall apply state-wide. An activated air pollution control authority may enforce this chapter for any source under its jurisdiction and may in addition

adopt requirements which are equivalent to or more stringent than standards or requirements on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except:

(1) Automobiles, trucks, and aircraft.

(2) Those sources under the jurisdiction of the energy facility site evaluation council.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-020, filed 4/11/83.]

WAC 173-403-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter and other chapters of Title 173 WAC shall have the following meanings:

(1) "Actual emissions" as of a particular date means the average rate, in weight per unit time, with air pollution controls applied, at which the affected emission unit emitted the pollutant during the two-year period which precedes the particular date, and which is representative of normal operation. An adjustment may be made to the average annual emission rate to account for unusual circumstances during the two-year period. The department or cognizant local authority may allow or require the use of an alternative time period upon a determination that the alternative time period is more representative of normal operation than is the immediately-preceding two years. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

The department or cognizant local authority may presume that source-specific allowable emissions, which incorporate limits on hours of operation or production rate, are equivalent to the actual emissions of the unit.

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air authority" or "cognizant local authority" means an air pollution control authority activated pursuant to chapter 70.94 RCW that has jurisdiction over the subject source.

(4) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(5) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(6) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is limited in production rate or hours of operation, or both, by an applicable regulatory order) and the most stringent of (a), (b), or (c) of this subsection. Physical and process limitations must be considered in determining maximum rated capacity.

(a) Standards as set forth in 40 CFR Part 60 and Part 61, if applicable to the source; or

(b) The applicable state implementation plan emission limitation; or

(c) The emission rate specified by an applicable regulatory order.

(7) "Ambient air" means the surrounding outside air.

(8) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant or multiple air contaminants in the ambient air which shall not be exceeded.

(9) "Best available control technology (BACT)" means technology which will result in an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

(10) "Best available retrofit technology (BART)" means any emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by source. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful

life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required. Such standards shall, to the degree possible, set forth the emission reductions achieved and provide for compliance by prescribing appropriate conditions in a regulatory order.

(11) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit or units in exchange for a decrease in emissions from another emissions unit or units, pursuant to RCW 70.94.155.

(12) "Class I area" means any federal, state, or Indian land which is classified or reclassified Class I.

(13) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

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

(15) "Director" means director of the Washington state department of ecology or duly authorized representative.

(16) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air, other than by the use of pollution abatement equipment or integral process pollution controls.

(17) "Emission" means a release of air contaminants into the ambient air.

(18) "Emission reduction credit (ERC)" means a credit granted to a source for a voluntary reduction in actual emissions.

(19) "Emission standard" means a regulation or regulatory order (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or operating conditions that result in control of air pollution emission.

(20) "Emissions unit" means any equipment, device, process, or activity that emits to the ambient air, or that may emit to the ambient air, any air contaminant.

(21) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-403-140(2).

(22) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(23) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-403-140 (2)(a)(ii).

(24) "In operation" means engaged in activity related to the primary design function of the source.

(25) "Integral vista" means a view perceived from within the Class I area of a specific landmark or panorama located outside the boundary of the Class I area.

(26) "Land manager" means the secretary of the federal or head of the state department or Indian governing body with authority over the Class I area.

(27) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(28) "Major emissions unit" means any emissions unit which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(29) "Major modification" means (a), (b), or (c) of this subsection, whichever is the most stringent:

(a) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause a net significant emissions increase for any pollutant regulated by state or federal law, except that a net significant emissions increase for any one of the following reasons shall not, in itself, cause the change to be a major modification:

(i) Use of an alternative fuel or raw material by reason of an order under Sections 2 (a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act; or

(ii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Federal Clean Air Act; or

(iii) Use of an alternative fuel or raw material that the source is capable of accommodating and was capable of accommodating prior to December 21, 1976, unless such change in fuel or raw material use is prohibited by a regulatory order; or

(iv) Use of an alternative fuel at a steam-generating unit to the extent that the fuel is generated from municipal solid waste; or

(v) An increase in the hours of operation or the production rate unless such increases are prohibited by a regulatory order.

(b) Any physical change or change in the method of operation of a major source, a source that would become a major source as a result of the proposed change, or a major emissions unit or an emissions unit that would become a major emissions unit as a result of the proposed change that is located in an area that is not in attainment for the pollutant under consideration or is located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, which change would cause the allowable emissions to be exceeded.

(c) Any reconstruction of a major source, or any reconstruction of a major emissions unit that is located in an area that is not in attainment for the pollutant under consideration or located in an area that is not in attainment for ozone and the pollutant under consideration is volatile organic compounds, for which reconstruction the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost of a comparable entirely new source or emissions unit.

(30) "Major source" means any source which has actual or allowable emissions of one hundred tons per year or more of any pollutant regulated by state or federal law.

(31) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61, as in effect on July 1, 1988.

(32) "Natural conditions" include naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(33) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions of a pollutant resulting from a physical change or change in method of operation of a specific emission unit in a source; and

(b) Any other increases or decreases in actual emissions of the same pollutant from the source that are contemporaneous with the change: *Provided*, That

(i) Said other increases or decreases are contemporaneous with the change only if they occur at the same time or within one year prior to the change, or if said decrease(s) has been documented by an emission reduction credit; and

(ii) Said other decreases in emissions are creditable only to the extent that the old level of actual emissions or the old level of allowable emissions, whichever is the lesser, exceeds the new level of allowable emissions; and

(iii) Said other decreases in emissions are not creditable if the specific emissions unit is a major emissions unit and is located (A) in an area that is not in attainment for the pollutant or (B) in an area that is not in attainment for ozone and the pollutant is volatile organic compounds; and

(iv) The determination of net emissions increase shall be valid only after a regulatory order has been issued which establishes that the new emissions from every emissions unit involved in the determination are equal to

the new allowable emissions expressed as weight of the pollutant per unit time.

(34) "New source" means a source which commences construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, restart after a period of five years of nonoperation, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emission standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification shall be construed as construction or installation or establishment of a new source.

(35) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60, as in effect on July 1, 1988.

(36) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(37) "Notice of construction" means a written application to permit construction of a new source or modification of an existing source.

(38) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(39) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(40) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(41) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(42) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(43) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(44) "PM-10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(45) "Prevention of significant deterioration (PSD)" means the federal regulations set forth in 40 CFR Subpart 52.21 as in effect on July 1, 1988, and as modified by WAC 173-403-080.

(46) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(47) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(48) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public involvement per WAC 173-403-110.

(49) "Regulatory order" means an order issued by the department or cognizant local authority to an air contaminant source which approves a notice of construction and/or limits emissions and/or establishes other air pollution control requirements.

(50) "Significant emission" means a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year	Pounds/Day	Pounds/Hour
Carbon monoxide	100		
Nitrogen oxides	40		
Sulfur dioxide	40	800	80
Volatile organic compounds	40		
Particulate matter	25	500	50
PM-10	15		
Lead	.6		
Total reduced sulfur (as H ₂ S)	10		
Total fluoride	3		

(51) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

(52) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related group of products.

(53) "Source category" means all sources of the same type or classification.

(54) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(55) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(56) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760mm (29.92 inches) of mercury.

(57) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide.

(58) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

(59) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(60) "Visibility impairment of a Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(61) "Volatile organic compound" means a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 millimeters of mercury at 20°C, except the following excluded compounds: Methane, ethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, trichlorotrifluoroethane, dichlorotetrafluoroethane, chloropentafluoroethane, methylene chloride, and 1,1,1-trichloroethane (methyl chloroform).

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-403-030, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-19-074 (Order 87-13), § 173-403-030, filed 9/16/87. Statutory Authority: RCW 70.94.331. 86-23-014 (Order 86-30), § 173-403-030, filed 11/10/86; 85-06-047 (Order 84-49), § 173-403-030, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-030, filed 8/26/83; 83-09-013 (Order DE 83-12), § 173-403-030, filed 4/11/83. Formerly WAC 18-60-020.]

WAC 173-403-050 New source review (NSR). (1) Applicability.

(a) A notice of construction must be filed with the department or cognizant local authority prior to the construction, installation, or establishment of a new source, if the source is in a category that is required to submit to new source review per applicable regulation of the said authority.

(b) The department or cognizant local authority may require a notice of construction prior to the construction, installation, or establishment of any new source, other than a single family or duplex dwelling.

(c) The notice of construction and new source review shall apply only to the emission unit(s) affected and the contaminants involved.

(2) **Additional information.** Within thirty days of receipt of a notice of construction, the department or cognizant local authority may require the submission of

additional plans, specifications, and such other information as deemed necessary for the review of the proposed new or modified source.

(3) **Requirements for nonattainment areas.** If the proposed new source is located in an area that is not in attainment for any air contaminant that would be emitted by the source, or if the source is located in an area that is not in attainment for ozone and the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new source will be in accord with applicable federal and state rules and regulations, including new source performance standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

(b) The new source will use best available control technology (BACT) for emissions control.

(c) If the new source is a major source or the proposed change is a major modification, it will comply with lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated.

(d) If the source is a major source and is located in an area that is not in attainment for carbon monoxide or ozone and the source will emit carbon monoxide or volatile organic compounds, it is required that there be an analysis of alternative sites, sizes, and production processes and environmental control techniques for the proposed new source which demonstrates that benefits of the proposed new source significantly outweigh the environmental and social costs imposed as a result of its location, construction, and modification. This analysis is the responsibility of the applicant, who may use an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act as a source of information for this analysis.

(e) The proposed new source will not violate the requirements for reasonable further progress established by the state implementation plan. If the source is a major source or the project is a major modification, the total new actual emissions from all sources existing at the time of application for notice of construction plus proposed allowable emissions for the new source, of the contaminants for which nonattainment has been designated, shall be no greater than the total actual emissions from existing sources, except that (i) the department or cognizant local authority may require that new total actual emissions be reduced to less than existing total actual emissions, as necessary to achieve air quality attainment goals stated in an approved plan of attainment, and except that (ii) the emissions from the proposed new source may be approved without an offsetting reduction from existing sources if an adequate emissions growth allowance is included in an approved plan of attainment. The above requirements must be met by reducing actual emissions from existing source(s). Arrangements for such offsetting reduction(s) of actual emissions must be made by the owner or operator of the

proposed new source. The proposed new source may be constructed only after the issuance of a regulatory order(s) to the proposed new source and to all the source(s) that provided the offset. The said orders shall include new allowable emissions limits for all the affected sources.

(f) If the source is a major source or the project is a major modification, the owner or operator shall demonstrate that all major sources owned or operated by such person (or persons under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the Federal Clean Air Act.

(g) In a locality that does not meet national ambient air quality standards and has not been designated a nonattainment area a proposed new major source or major modification must reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact. A department approved air quality model shall be used to demonstrate a net air quality benefit where the source would otherwise cause or contribute to a violation of any national ambient air quality standard.

(4) **Requirements for attainment areas.** If the proposed new source is located in an area that is in attainment for all contaminants that would be emitted by the source and the source is located in an ozone attainment area if the source would emit volatile organic compounds, the department or cognizant local authority shall review notice(s) of construction, plans, specifications, and other information associated therewith to determine that:

(a) The new source will be in accord with applicable federal and state regulations, including new source performance standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

(b) The project will use best available control technology (BACT) for emissions control.

(c) The allowable emissions from the proposed new facility will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of a national ambient air quality standard at any locality that does not or would not meet the applicable standard. This requirement will be considered to be met if the impact at any location within a nonattainment area or a locality exceeding the applicable standard does not exceed the following levels:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO	—	—	0.5 mg/m ³	—	2 mg/m ³
TSP	1.0 ug/m ³	5 ug/m ³	—	—	—
SO ₂	1.0 ug/m ³	5 ug/m ³	—	25 ug/m ³	30 ug/m ³
PM-10	1.0 ug/m ³	5 ug/m ³	—	—	—
NO ₂	1.0 ug/m ³	—	—	—	—

(d) The proposed new source will not cause a violation of any ambient air quality standard.

(e) An offsetting emissions reduction, that satisfies the requirements of WAC 173-403-050 (3)(e), may be used to satisfy the requirements of WAC 173-403-050 (4)(c) and (d) and (9) if required.

(5) **Preliminary determination.** Within thirty days after receipt of all information required, the department or cognizant local authority shall:

(a) Make preliminary determinations on the matters set forth in subsection (3), (4), or (9) of this section whichever is applicable; and

(b) Initiate compliance with the provisions of WAC 173-403-110 relating to public notice and public comment, as applicable.

(6) **Final determination.** If, after review of all information received including public comment, the department or cognizant local authority finds that all the conditions in subsection (3), (4), or (9) of this section are satisfied, whichever is applicable, the authority will issue a regulatory order to approve the notice of construction for the proposed new source or modification.

(7) **Portable sources.** For portable sources which locate temporarily at particular sites, the owner or operator shall be allowed to operate at the temporary location without filing a notice of construction, providing that the owner or operator notifies the department or cognizant local authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable the department or cognizant local authority to determine that the operation will comply with the emission standards for a new source, will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time, but in no case longer than one year, and the department or cognizant local authority may set specific conditions for operation during said period. A temporary source shall be required to comply with all applicable emission standards.

(8) **Commencement of construction.** The owner or operator of the new source shall not commence construction until the applicable notice of construction has been approved.

(9) **Visibility requirements.** Any new major source or new major modification shall evaluate the visibility impairment per 40 CFR 52.21(e) for all Class I areas in Washington and neighboring states. The evaluation shall comply with the following:

(a) When the land manager has officially designated visibility to be an important attribute, the owner or operator of the new source shall demonstrate that the potential emissions in combination with emissions from all other sources permitted after January 1, 1982, shall not cause or contribute to a significant visibility impairment.

(b) The department shall upon receipt of an application for a notice of construction notify the land managers of potentially affected areas. Notification shall be in writing and include a copy of all information relevant to the application including the information developed for this section. This information shall be transmitted to the land manager within thirty days of receipt of the application and at least sixty days prior to public hearing on the application for permit to construct.

(c) All evaluations of visibility impairment required under this section shall use the models on file with the

department or equivalent models approved by the department or EPA.

(d) The results of the evaluation shall be sent to the land manager of the affected areas for their review and recommendation. The review shall consider the degree of visibility impairment, duration, geographic extent, frequency, and time. The recommendation of the land managers concerning adverse impact on visibility shall be sent to the department within thirty days of receipt of the evaluation results.

(e) Should the department concur with the recommendation of the land manager then the notice of construction shall be approved or disapproved according to the recommendation. The department may find the review of a land manager inadequate and make its own determination. A finding of significant visibility impairment shall require a disapproval of the notice of construction, unless sufficient mitigating measures are developed.

(f) The department or land managers may demonstrate that the new source would cause impairment of an integral vista officially designated at least six months before the new source submitted a complete application. The protection of an integral vista by controls on the source shall consider the time necessary for compliance, the energy and nonair quality environmental effects of compliance and the productive life of the source.

(g) The department may require visibility monitoring at the site of the new source or potentially affected areas as a part of the applicable regulatory order. The monitoring period may be before or after construction or both.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-403-050, filed 1/3/89. Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-050, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A-.060. 84-21-098 (Order 84-27), § 173-403-050, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-050, filed 8/26/83; 83-09-013 (Order DE 83-12), § 173-403-050, filed 4/11/83.]

WAC 173-403-060 Bubble rules. (1) **Applicability.** The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) **Conditions.** A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of the department or cognizant local authority.

(a) The contaminants exchanged must be of the same type, that is, particulates for particulates, sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of air quality standards.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous (NESHAPS) contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized for opacity per se. If the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulates limit;

(iii) An opacity greater than sixty percent shall never be authorized;

(iv) If the given emissions unit is a major emissions unit, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrently with or prior to the authorization of a bubble, each affected source shall receive (have received) a regulatory order that establishes total allowable emissions from the source of the contaminant being bubbled, expressed as weight of the contaminant per unit time. The new total allowable emissions shall be considered RACT.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by the department or cognizant local authority.

(3) Jurisdiction. Whenever a bubble application involves emissions units, some of which and under the jurisdiction of the department and some of which are under the jurisdiction of a local authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.

(4) Additional information. Within thirty days, after the receipt of a bubble application and all supporting data and documentation, the department or cognizant local authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, the department or cognizant local authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions expressed in weight of pollutant per unit time for each emissions unit involved in the application. The order or equivalent document must include all requirements necessary to assure that conditions in subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the

shutdown of equipment, the regulatory order or equivalent document must prohibit the operation of the affected equipment.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-060, filed 8/26/83.]

WAC 173-403-070 Issuance of emission reduction credits. (1) Applicability. The owner or operator of any source may apply to the department or cognizant local authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished, except that within one hundred eighty days after the adoption of this regulation, an ERC application may be made for an emission reduction which took place between April 1, 1980, and the date of adoption of this regulation.

(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the department or cognizant local authority.

(a) The quantity of emissions in the ERC shall be less than the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown or equipment, specified control practices, etc.

(c) The ERC must be large enough so as to be readily quantifiable in relation to the source strength of the emissions unit(s) involved, but in no case shall the ERC be for less than one ton per year.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-403-050 (3)(e), nor as part of a bubble transaction under WAC 173-403-060, nor to satisfy NSPS, BACT, or LAER.

(e) Concurrently with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order that establishes total allowable emissions from the source of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time. The new allowable emissions shall be considered RACT.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, the department or cognizant

local authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, the department or cognizant local authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the department or cognizant local authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the proposed new allowable emission rate(s) claimed in the ERC application, expressed as weight of pollutant per unit time. The regulatory order or equivalent document must include all requirements that are necessary to provide such assurance. If the ERC depends in whole or in part upon the shutdown or equipment, the regulatory order or equivalent document must prohibit the startup of the affected equipment; and,

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

[Statutory Authority: RCW 70.94.331, 85-06-047 (Order 84-49), § 173-403-070, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060, 84-21-098 (Order 84-27), § 173-403-070, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW, 83-18-010 (Order DE 83-22), § 173-403-070, filed 8/26/83.]

WAC 173-403-075 Use of emission reduction credits. (1) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-403-060, as a part of a determination of "net emissions increase," as an offsetting reduction to satisfy the requirements for new source review per WAC 173-403-050 (3)(e), to satisfy requirements for PSD review per WAC 173-403-050 (4)(c), or to satisfy requirements for visibility review per WAC 173-403-050 (4)(e).

(2) Surrender of ERC certificate. When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the issuing authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) Conditions of use. An ERC may be used only for the contaminant(s) for which it was issued. The department or cognizant local authority may impose additional conditions of use to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC.

(4) Sale of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

(5) Time of use. An unused ERC and any unused portion thereof shall expire ten years after date of original issue.

(6) Discount due to change in SIP. If reductions in emissions beyond those identified in the state implementation plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the department or cognizant local authority after public involvement per WAC 173-403-110. Any such discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

[Statutory Authority: Chapters 43.21A and 70.94 RCW, 83-18-010 (Order DE 83-22), § 173-403-075, filed 8/26/83.]

WAC 173-403-080 Prevention of significant deterioration (PSD). Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on July 1, 1988, are herein incorporated by reference with the following additions and modifications:

(1) Construction of "administrator." In 40 CFR 52.21 (b)(17), federally enforceable, (f)(1)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l)(2), air quality models (p)(2) federal land manager, and (t), disputed permits or redesignations, the word "administrator" shall be construed in its original meaning. In 40 CFR 52.21 (b)(3)(iii) administrator shall mean both the administrator of EPA and the director of the department. In all other cases, the word "administrator" shall be construed to mean the director of the department.

(2) Contemporaneous. Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs at the same time or within ten years prior to the change. If a decrease occurred more than one year prior to the change it can only be credited if the decrease has been documented by an emission reduction credit."

(3) Public participation. Subpart 40 CFR 51.166(q) public participation, as in effect July 1, 1988, is hereby incorporated by reference, with the following modifications:

(a) In 40 CFR 51.166 (q)(2)(iv), the word "administrator" shall be construed in its original meaning.

(b) In 40 CFR 51.166 (q)(2)(iv), the phrase "specified time period" shall mean thirty days.

(4) Section 40 CFR 51.166 Subpart (p)(1) Sources Impacting Federal Class I areas - additional requirements - Notice to EPA, as in effect on July 1, 1988, is herein incorporated by reference.

(5) Secondary emissions. Subpart 40 CFR 52.21 (b)(18) is changed to read:

Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification

which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains coming to or from the new or modified stationary source; and

(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(6) List of Class I areas. The following areas are the Class I areas in Washington state as of January 1, 1988:

Mount Rainier National Park
North Cascade National Park
Olympic National Park
Alpine Lakes Wilderness Area
Glacier Peak Wilderness Area
Goat Rocks Wilderness Area
Mount Adams Wilderness Area
Pasayten Wilderness Area.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-403-080, filed 1/3/89. Statutory Authority: RCW 70.94.331. 85-06-047 (Order 84-49), § 173-403-080, filed 3/6/85. Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A-.060. 84-21-098 (Order 84-27), § 173-403-080, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-080, filed 8/26/83.]

WAC 173-403-090 Retrofit requirements for visibility protection. (1) Determination of best available retrofit technology (BART). The department shall identify and analyze each source which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area in Washington and any adjacent state and to determine BART for the contaminant of concern and those additional air pollution control technologies that are to be required to reduce impairment from the source.

(2) Initially defined BART. The owner or operator of any source to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART for each contaminant contributing to visibility impairment that is emitted at more than 250 tons per year. Each source for which BART is required must install and operate BART as expeditiously as possible, but in no case later than five years after the conditions are included in a regulatory order.

(3) Future definitions of BART. The owner or operator of any source to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART as new technology becomes available for a contaminant if:

(a) The source emits more than 250 tons per year of the contaminant; and,

(b) The controls representing BART have not previously been required in this section.

(4) Appeal. Any source subject to the requirements under this section to install, operate, and maintain BART, may apply to the department for an exception from that requirement pursuant to 40 CFR 51.303.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-090, filed 8/26/83.]

WAC 173-403-100 Compliance schedules. (1) **Issuance.** Whenever a source is found to be in violation of an emission standard or other provision of this chapter, the department or cognizant local authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement pursuant to WAC 173-403-110 must be met.

(2) **Federal action.** A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(3) **Delayed compliance penalties.** Sources on a compliance schedule but not meeting emissions standards may be subject to delayed compliance penalties as provided in the Federal Clean Air Act.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-100, filed 4/11/83.]

WAC 173-403-110 Public involvement. (1) **Applicability.** Public notice shall be provided prior to the approval or denial of any of the following types of applications or other actions:

(a) Notice of construction for any new or modified source or emissions unit, the approval of which would result in a net significant emissions increase for any pollutant regulated by state or federal law; or

(b) Any application or other proposed action for which a public hearing is required by EPA prevention of significant deterioration rules; or

(c) Any order to determine reasonably available control technology; or

(d) An order to establish a compliance schedule or a variance; or

(e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or

(f) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(g) An order to authorize a bubble; or

(h) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of the department or cognizant local authority.

(2) **Public notice.** Public notice shall be made only after all information required by the department or cognizant local authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:

(a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect on air quality.

(b) Publication in a newspaper of general circulation in the area of the proposed project of notice:

(i) Giving a brief description of the proposal;

(ii) Advising of the location of the documents made available for public inspection;

(iii) Advising of a thirty-day period for submitting written comment to the department or cognizant local authority;

(iv) Advising that a public hearing may be held if the department or cognizant local authority determine within a thirty-day period that there is a significant public interest.

(3) **Public comment.** No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) **Public hearings.** The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The department or cognizant local authority may, in its discretion, hold a public hearing if it determines there is a significant public interest. Any such hearing shall be held upon such notice and at such time and place as the department or cognizant local authority deems reasonable.

(5) **Other requirements of law.** Whenever other procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment served by this section, such procedures may be used in lieu of the provisions of this section.

(6) **Public information.** Copies of notices of construction, orders, and modifications thereof, not declared confidential by the applicant, which are issued hereunder shall be available for public inspection on request at the department or cognizant local authority.

[Statutory Authority: RCW 70.94.331. 86-23-014 (Order 86-30), § 173-403-110, filed 11/10/86. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-403-110, filed 8/26/83. 83-09-013 (Order DE 83-12), § 173-403-110, filed 4/11/83.]

WAC 173-403-120 Variance. Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the department for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which a local air pollution control authority has jurisdiction shall make application to the said authority rather than the department. The department or local authority may grant such variance, but only after public involvement per WAC 173-403-110.

(2) **Full faith and credit.** Variances granted by a local authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the Federal Environmental Protection Agency.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-120, filed 4/11/83.]

WAC 173-403-130 Requirements for nonattainment areas. The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-403-110.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-130, filed 4/11/83.]

WAC 173-403-141 Creditable stack height and dispersion techniques. (1) Applicability. These provisions shall apply to all stationary sources except:

(a) Stacks for which construction had commenced or dispersion techniques which were implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or such dispersion techniques are used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Open burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual height of a stack nor to prohibit the use of dispersion techniques.

(2) **Prohibitions.** No source may employ any of the following dispersion techniques or excess stack height, as explained below, to meet ambient air quality standards or PSD increment limitations.

(a) **Excess stack height.** Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii) $H_g = H + 1.5L$

where: H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the

ground level elevation at the base of the stack, L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

Proviso: EPA, the state, or local control agency may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Nearby," as used in this proviso for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to the prevention of significant deterioration (PSD) program (WAC 173-403-080 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Manipulation to increase plume rise. Increasing final exhaust gas plume rise by manipulating source

process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner or operator.

(B) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the description of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

[Statutory Authority: RCW 70.94.331. 86-23-014 (Order 86-30), § 173-403-141, filed 11/10/86.]

WAC 173-403-145 Adjustment for atmospheric conditions. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air pollution episode regulations.

[Statutory Authority: RCW 70.94.331. 86-23-014 (Order 86-30), § 173-403-145, filed 11/10/86.]

WAC 173-403-150 Maintenance of pay. Any source which uses a supplemental or intermittent control system for the purpose of meeting the requirements of Section 123, Section 113(d), or Section 119 of the Federal Clean Air Act, as amended, shall not temporarily reduce the pay of any employee because of the use of the supplemental or intermittent or other dispersion-dependent control system(s).

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-150, filed 4/11/83.]

WAC 173-403-160 Requirements for boards and director. (1) **Public interest.** A majority of the members of any local air pollution control authority board shall represent the public interest. A majority of the members of such boards, and the director, shall not derive any significant portion of their respective incomes from persons subject to enforcement orders pursuant to the state and federal clean air acts. An elected public official and the director shall be presumed to represent the public interest. In the event that a director derives a significant portion of his income from persons subject to enforcement orders, he shall delegate sole responsibility for administration of any part of the program which involves

these persons to the deputy director or an assistant director, as appropriate.

(2) **Disclosure.** Each member of any local board and the director shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member or director shall remove himself from participation as a board member in any action or voting on such matter.

(3) **Define significant income.** For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-160, filed 4/11/83.]

WAC 173-403-170 Regulatory actions. The department may take any of the following regulatory actions to enforce this chapter.

(1) **Notice of violation.** Whenever the department has reason to believe that any provision of this chapter has been violated, it may cause written notice to be served on the alleged violator or violators. The notice shall specify the provision of this chapter alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time.

(2) **Civil penalty.** Whenever any person violates any of the provisions of this chapter, he shall be subject to a penalty in the form of a fine in an amount not to exceed one thousand dollars per day for each violation. Each such violation shall be separate and distinct and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty shall be imposed by a notice in writing from the director or designee of the director or authorized person in the cognizant local authority describing the violation with reasonable particularity. Further, the person is subject to a fine of up to five thousand dollars to be levied by the director if requested by the board of a local authority or if the director determines that the penalty is needed for effective enforcement of this chapter. The maximum daily fine imposed for violation of standards by a specific emissions unit is five thousand dollars. Upon written application submitted to the department within fifteen days after notice has been received the director may remit or mitigate the penalty upon such terms as the director deems proper and when deemed in the best interest to carry out the purpose of this chapter. The mitigation shall not affect or reduce the penalty imposed by the local board. Notwithstanding any other provisions of this subsection, the maximum daily fine that may be imposed upon any emissions unit for violation of any opacity standard is four hundred dollars.

(3) **Assurance of discontinuance.** The director or authorized person in the cognizant local authority may

accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) **Restraining orders, injunctions.** Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) **Emergency episodes.** The department may issue such orders as authorized by chapter 194, Laws of 1971 ex. sess., whenever an air pollution episode forecast is declared.

(6) **Compliance orders.** The department may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

[Statutory Authority: RCW 70.94.331, 70.94.141 and 43.21A.060. 84-21-098 (Order 84-27), § 173-403-170, filed 10/19/84. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-170, filed 4/11/83.]

WAC 173-403-180 Criminal penalties. Persons in violation of this chapter may be subject to the provisions of RCW 70.94.430.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-180, filed 4/11/83.]

WAC 173-403-190 Appeals. Decisions and orders of the department or a cognizant local authority may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-013 (Order DE 83-12), § 173-403-190, filed 4/11/83.]

Chapter 173-405 WAC KRAFT PULPING MILLS

WAC

173-405-012	Statement of purpose.
173-405-021	Definitions.
173-405-033	Standards of performance.
173-405-035	Emission standards for sources emitting hazardous air pollutants.
173-405-040	Emission standards.
173-405-041	Emission requirements of prior jurisdictions.
173-405-045	Creditable stack height and dispersion techniques.
173-405-061	More restrictive emission standards.
173-405-072	Monitoring requirements.
173-405-077	Report of startup, shutdown, breakdown or upset conditions.
173-405-078	Emission inventory.

- 173-405-086 New source review.
 173-405-087 Prevention of significant deterioration (PSD).
 173-405-091 Special studies.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-405-011 Statement of policy and purpose. [Order DE 76-35, § 173-405-011, filed 12/28/76. Formerly WAC 18-36-011.] Repealed by 80-11-060 (Order DE 80-15), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
- 173-405-031 Specific emission standards. [Order DE 76-35, § 173-405-031, filed 12/28/76. Formerly WAC 18-36-031.] Repealed by 80-11-060 (Order DE 80-15), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
- 173-405-036 General emission standards and nuisance control measures. [Order DE 76-35, § 173-405-036, filed 12/28/76. Formerly WAC 18-36-036.] Repealed by 80-11-060 (Order DE 80-15), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
- 173-405-071 Monitoring and reporting. [Order DE 76-35, § 173-405-071, filed 12/28/76. Formerly WAC 18-36-071.] Repealed by 80-11-060 (Order DE 80-15), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
- 173-405-076 Report of startup, shutdown, breakdown or upset condition. [Order DE 76-35, § 173-405-076, filed 12/28/76. Formerly WAC 18-36-076.] Repealed by 80-04-049 (Order DE 80-7), filed 3/21/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331.
- 173-405-081 Notice of construction. [Order DE 76-35, § 173-405-081, filed 12/28/76. Formerly WAC 18-36-081.] Repealed by 80-04-049 (Order DE 80-7), filed 3/21/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331.
- 173-405-090 Operating permit. [Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-090, filed 8/20/80.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
- 173-405-101 Exemption. [Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-101, filed 8/20/80; Order DE 76-35, § 173-405-101, filed 12/28/76. Formerly WAC 18-36-101.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

WAC 173-405-012 Statement of purpose. These rules are enacted under the provisions of the Washington Clean Air Act (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from kraft pulping mills in order to provide for the systematic reduction and control of air pollution in the kraft pulping industry; and

(2) Establish standards deemed to be technically feasible and reasonably attainable and revise such standards as new information and better technology are developed and become available.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-012, filed 8/20/80.]

WAC 173-405-021 Definitions. Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to kraft pulping mills as defined below.

[Title 173 WAC—p 550]

(1) "Kraft mill" means any manufacturing facility which uses an alkaline solution containing sodium hydroxide and/or sodium sulfide, and any other chemical pulping facility, except those covered by chapter 173-410 WAC, to produce pulp and/or paper products from wood fibers. For the purposes of this regulation "kraft mill" is equivalent to "source."

(2) "New source" means a source which commences construction after September 24, 1976. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

(3) "Noncondensibles" means gases and vapors from the digestion and evaporation processes of a mill that are not condensed with the equipment used in those processes.

(4) "Recovery furnace stack" means the stack from which the products of combustion from the recovery furnace are emitted to the ambient air.

(5) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-405-021, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-021, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-021, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-021, filed 3/21/80; Order DE 76-35, § 173-405-021, filed 12/28/76. Formerly WAC 18-36-021.]

WAC 173-405-033 Standards of performance. For kraft mills which commenced construction after September 24, 1976, Title 40, Code of Federal Regulations Part 60, subparts A, and BB and appendix A, B, C and D as promulgated prior to December 1, 1982, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-033, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-033, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-033, filed 3/21/80.]

WAC 173-405-035 Emission standards for sources emitting hazardous air pollutants. (1) The national emissions standards for hazardous air pollutants (NESHAPS) are by this reference adopted and incorporated herein.

(2) The department, at any time after the effective date of this section, may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities. Source testing, monitoring, and analytical methods for sources of the above-named contaminants shall conform with the requirements of NESHAPS.

(3) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-405-035, filed 8/26/83.]

WAC 173-405-040 Emission standards. No kraft pulp mill shall cause or permit air contaminant emissions in excess of the limits described in this section, as modified by chapter 173-403 WAC if applicable. Further, all kraft pulp mills are required to use reasonably available control technology which may be determined for some mills to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source and issue a regulatory order to the mill for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule.

(1) Recovery furnaces.

(a) The particulate emissions from each recovery furnace stack shall not exceed 0.23 grams of particulate per dry cubic meter at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen.

(b) The TRS emissions from each recovery furnace stack constructed before January 1, 1970, and for recovery furnaces that have direct contact evaporators, shall not exceed 17.5 ppm corrected to eight percent oxygen for a daily average.

(c) The TRS emissions from each recovery furnace constructed after January 1, 1970, which does not have a contact evaporator, shall not exceed 5.0 ppm corrected to eight percent oxygen for a daily average.

(2) Smelt dissolver tank vent. The particulate emissions from smelt dissolver tank vents shall not exceed 0.15 grams per kilogram (0.30 pounds per ton) of solids fired at the associated recovery furnace.

(3) Lime kilns.

(a) The particulate emission from each lime kiln stack shall not exceed 0.30 grams of particulate per dry cubic meter (0.13 grains/dscf) at standard conditions corrected to ten percent oxygen.

(b) The TRS emissions from any lime kiln stack shall not exceed eighty ppm expressed as hydrogen sulfide for more than two consecutive hours in any one day.

(c) The average daily emission of TRS from any lime kiln stack shall not exceed fifty ppm. After January 1, 1985, TRS emissions from each lime kiln stack shall not exceed twenty ppm corrected to ten percent oxygen for a daily average.

(4) Other TRS emissions units. Noncondensibles from digesters, multiple-effect evaporators and condensate stripper system shall at all times be treated to reduce the emissions of TRS equal to the reduction achieved by thermal oxidation in a lime kiln. After January 1, 1982, a backup treatment system or equivalent approved by the department must be installed to assure continual treatment.

(5) Other particulate emissions units. The emission of particulates from emissions units other than kraft recovery furnaces, lime kilns, or smelt dissolving tank vents, shall not exceed the following maximums:

(a) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood to produce steam and which commenced construction prior to January 1, 1983.

(b) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood to produce steam, and which commenced construction after January 1, 1983.

(c) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under (a) or (b) of this subsection.

(6) Fugitive emissions. Each kraft mill shall take reasonable precautions to prevent fugitive emissions.

(7) Masking. No kraft mill shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fallout. No kraft mill shall cause or permit the emission of particulate matter from any emissions unit which becomes deposited beyond the property under direct control of the owner or operator of the kraft mill in such quantities or of such character or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or will interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(9) Other contaminants. No kraft mill shall cause or permit the emission of an air contaminant or water droplets including an air contaminant whose emission is not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with use or enjoyment of property.

(10) No person shall cause or allow the emission of a plume from any kraft recovery furnace, smelt dissolver tank, or lime kiln, which has an average opacity greater than thirty-five percent for more than six consecutive minutes in any sixty minute period, except as described in WAC 173-405-040(11).

No person shall cause or allow the emission of a plume, from any emissions unit other than a kraft recovery furnace, smelt dissolver tank, or lime kiln, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty minute period, except that these provisions do not apply when the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit soot blowing and grate cleaning necessary to the operation of the boiler facility. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the department be advised of the schedule.

There shall be no more than one violation notice issued in any sixty minute period.

These provisions shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed the applicable maximum.

(11) Each mill may petition for, and the department may establish by regulatory order, other opacity limits for a specific kraft recovery furnace or lime kiln, providing:

(a) Compliance with all other applicable emission limits can be demonstrated; and

(b) Best practicable operation and maintenance procedures, as approved by the department, are continuously employed.

(12) Any person electing to apply for exceptions per the provisions of WAC 173-405-040(11) shall submit a program acceptable to the department of ecology. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.

(13) The opacity provisions of this chapter shall apply until an application is received by the department petitioning for a revised limit as allowed by WAC 173-405-040(11). After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.

(14) Odors. No kraft pulping mill shall cause or permit the emission of odors in such quantities or of such duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with the use or enjoyment of property.

(15) Operation and maintenance. At all times, including periods of abnormal operation and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which may include, but is not limited to, monitoring results, opacity

observations, review of operating and maintenance procedures, and inspection of the source.

(16) SO₂.

(a) The emission of sulfur dioxide from any recovery furnace or lime kiln shall not exceed five hundred ppm for an hourly average, corrected to eight percent oxygen for a recovery furnace or to ten percent oxygen for a lime kiln.

(b) The emission of sulfur dioxide from any emissions unit other than a recovery furnace or lime kiln shall not exceed one thousand ppm for an hourly average, corrected to seven percent oxygen for combustion units.

(17) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of any emissions unit using procedures contained in *Source Test Manual - Procedures for Compliance Testing*, state of Washington, department of ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of an emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-040, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-040, filed 8/20/80.]

WAC 173-405-041 Emission requirements of prior jurisdictions. Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-405-041, filed 3/6/85.]

WAC 173-405-045 Creditable stack height and dispersion techniques. The conditions of WAC 173-403-141 and 173-403-145 shall apply to all sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-405-045, filed 12/16/87.]

WAC 173-405-061 More restrictive emission standards. The department may establish more restrictive emission standards for new mills or for mills expanding existing facilities pursuant to WAC 173-403-050.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-061, filed 4/15/83; Order DE 76-35, § 173-405-061, filed 12/28/76. Formerly WAC 18-36-061.]

WAC 173-405-072 Monitoring requirements. Each kraft mill shall conduct routine monitoring of emissions in accordance with a program that has been approved by the department. Results of the monitoring shall be reported within thirty days of the end of each calendar month and shall include data as follows:

(1) Particulate. The results of particulate measurements made on each source during the month.

(2) TRS.

(a) The average TRS concentration expressed in units of the standard for each recovery furnace and lime kiln stack.

(b) The date, time and concentration of TRS for each TRS emissions violation and the total numbers of hours that exceed the standard.

(3) Opacity or other continuous monitor.

(a) The date and time of opacity in excess of the standard.

(b) If equipment for continuous monitoring of opacity is not available, continuous monitoring of operating parameters may be required by a regulatory order as an alternate. If an alternate is approved, the date and time of each occurrence in excess of the regulatory order must be reported.

(4) Production. The average daily production of air-dried unbleached pulp.

(5) Other data. Each kraft mill shall furnish, upon request of the department, such other pertinent data as the department may require to evaluate the mill's emissions or emission control program.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-072, filed 8/20/80.]

WAC 173-405-077 Report of startup, shutdown, breakdown or upset conditions. If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.

Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the change of recurrence.

Compliance with the requirements of WAC 173-405-077, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-405 WAC nor from the resulting liabilities for failure to comply.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-077, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-077, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-077, filed 3/21/80.]

WAC 173-405-078 Emission inventory. The owner or operator of any kraft pulp mill shall submit an inventory of emissions from the source each year upon a form

and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-405-078, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-405-078, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-078, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-078, filed 3/21/80.]

WAC 173-405-086 New source review. Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-405-086, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-060 (Order DE 80-15), § 173-405-086, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-049 (Order DE 80-7), § 173-405-086, filed 3/21/80.]

WAC 173-405-087 Prevention of significant deterioration (PSD). The conditions of WAC 173-403-080 shall apply to all new and modified sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-405-087, filed 12/16/87.]

WAC 173-405-091 Special studies. The department may require such additional special studies relevant to process emissions and establish completion dates as it determines necessary.

[Order DE 76-35, § 173-405-091, filed 12/28/76. Formerly WAC 18-36-091.]

Chapter 173-410 WAC SULFITE PULPING MILLS

WAC

173-410-012	Statement of purpose.
173-410-021	Definitions.
173-410-035	Emission standards for sources emitting hazardous air pollutants.
173-410-040	Emission standards.
173-410-042	Emission requirements of prior jurisdictions.
173-410-045	Creditable stack height and dispersion techniques.

- 173-410-062 Monitoring requirements.
 173-410-067 Report of startup, shutdown, breakdown or upset conditions.
 173-410-071 Emission inventory.
 173-410-086 New source review.
 173-410-087 Prevention of significant deterioration (PSD).

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 173-410-011 Statement of policy and purpose. [Order DE 76-36, § 173-410-011, filed 12/28/76. Formerly WAC 18-38-011.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-031 Specific emission standards. [Order DE 76-36, § 173-410-031, filed 12/28/76. Formerly WAC 18-38-031.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-036 General emission standards and nuisance control measures. [Order DE 76-36, § 173-410-036, filed 12/28/76. Formerly WAC 18-38-036.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-041 More restrictive emission standards. [Order DE 76-36, § 173-410-041, filed 12/28/76. Formerly WAC 18-38-041.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-051 Compliance. [Order DE 76-36, § 173-410-051, filed 12/28/76. Formerly WAC 18-38-051.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-061 Monitoring and reporting. [Order DE 76-36, § 173-410-061, filed 12/28/76. Formerly WAC 18-38-061.] Repealed by 80-11-061 (Order DE 80-16), filed 8/20/80. Statutory Authority: RCW 70.94.331 and 70.94.395.
 173-410-066 Report of startup, shutdown, breakdown or upset condition. [Order DE 76-36, § 173-410-066, filed 12/28/76. Formerly WAC 18-38-066.] Repealed by 80-04-050 (Order DE 80-8), filed 3/21/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331.
 173-410-081 Notice of construction. [Order DE 76-36, § 173-410-081, filed 12/28/76. Formerly WAC 18-38-091.] Repealed by 80-04-050 (Order DE 80-8), filed 3/21/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331.
 173-410-090 Operating permit. [Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-090, filed 8/20/80.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.
 173-410-091 Exemptions. [Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-091, filed 8/20/80; Order DE 76-36, § 173-410-091, filed 12/28/76. Formerly WAC 18-38-081.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

WAC 173-410-012 Statement of purpose. These rules are enacted under the provisions of the Washington Clean Air Act (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from sulfite pulping mills in order to provide for the systematic reduction and control of air pollution in the sulfite pulping industry; and

(2) Establish standards deemed to be technically feasible and reasonably attainable and revise such standards as new information and better technology are developed and become available.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-012, filed 8/20/80.]

WAC 173-410-021 Definitions. Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to sulfite pulping mills as defined below.

(1) "Acid plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery system.

(2) "Average daily emission" means total weight of an air contaminant emitted in each month, divided by the number of days of production that month.

(3) "Average daily production" means air dried tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

(4) "Blow system" includes the storage chest, tank or pit to which the digester pulp is discharged following the cook.

(5) "New source" means a source which commences construction after January 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

(6) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, storage facilities, and emission control equipment associated with the recovery cycle.

(7) "Sulfite pulping mill" means any manufacturing facility which uses a cooking liquor consisting of sulfurous acid, a sulfite or bisulfite salt alone or in any combination, with or without additional mechanical refining or delignification to produce pulp, pulp products or cellulose from wood fibers. For the purposes of this regulation "sulfite pulping mill" is equivalent to "source."

(8) "Total reduced sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present, expressed as hydrogen sulfide.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-410-021, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-410-021, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-021, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-050 (Order DE 80-8), § 173-410-021, filed 3/21/80; Order DE 76-36, § 173-410-021, filed 12/28/76. Formerly WAC 18-38-021.]

WAC 173-410-035 Emission standards for sources emitting hazardous air pollutants. (1) The national emissions standards for hazardous air pollutants (NESHAPS) are by this reference adopted and incorporated herein.

(2) The department, at any time after the effective date of this section, may conduct source tests and recovery access to records, books, files, and other information specific to the control, recovery, or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities. Source testing, monitoring, and analytical methods for sources of the above-named contaminants shall conform with the requirements of NESHAPS.

(3) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-18-010 (Order DE 83-22), § 173-410-035, filed 8/26/83.]

WAC 173-410-040 Emission standards. No sulfite pulping mill shall cause or permit emissions in excess of the limits listed below. All sulfite pulping mills are required to meet the emission standards of this chapter, as modified by chapter 173-403 WAC if applicable. Further, all point sources are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limits of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the operator of the source defining RACT. The order will contain a schedule for installation, with intermediate benchmark dates, and a final completion date and shall constitute a compliance schedule.

(1) Sulfur dioxide.

(a) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill which practices incineration of the spent sulfite liquor, shall not exceed ten grams of sulfur dioxide per kilogram (twenty pounds per ton) of air dried, unbleached pulp produced.

(b) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill that does not incinerate the spent sulfite liquor, shall not exceed two grams of sulfur dioxide per kilogram (four pounds per ton) of air dried, unbleached pulp produced.

(c) The blow system emissions shall not exceed 0.1 grams of sulfur dioxide per minute, on a fifteen minute average, per kilogram (0.2 pounds per ton) of air dried, unbleached pulp discharged from the digester.

(d) Emissions from the recovery system and acid plant shall not exceed 800 ppm of sulfur dioxide for any hourly average.

(e) Emissions from recovery systems constructed after January 24, 1972, shall not exceed 300 ppm of sulfur dioxide for any hourly average.

(f) Emissions from any emissions unit, other than a recovery system, a blow system or an acid plant, shall not exceed 1000 ppm of sulfur dioxide, corrected to seven percent oxygen in the case of combustion unit, for any hourly average.

(2) Particulate.

(a) Emissions of particulate from recovery systems constructed before January 24, 1972, shall not exceed 0.23 grams per dry cubic meter of exhaust at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen.

(b) Emissions of particulate matter from recovery systems constructed after January 24, 1972, shall not exceed 0.14 grams per dry cubic meter of exhaust at standard conditions (0.06 grains/dscf) corrected to eight percent oxygen.

(c) The emission of particulates from emissions units other than acid plants or recovery systems shall not exceed the following maximums:

(i) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood to produce steam and which commenced construction prior to January 1, 1983.

(ii) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood to produce steam, and which commenced construction after January 1, 1983.

(iii) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under subsections (i) or (ii) of this section.

(3) Each sulfite mill shall take reasonable precautions to prevent fugitive emissions from becoming airborne and if located in a nonattainment area shall be required to use reasonably available control technology (RACT) to control fugitive emissions of nonattainment contaminants.

(4) Masking. No sulfite mill shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(5) Fallout. No sulfite mill shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the sulfite mill in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material was deposited.

(6) Other contaminants. No sulfite mill shall cause or permit the emission of an air contaminant or water droplets, including an air contaminant whose emission is not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life or property.

(7) Opacity. No person shall cause or allow the emission of a plume from a recovery system or acid plant which has an average opacity greater than thirty-five percent, for more than six consecutive minutes in any sixty minute period, except as described in WAC 173-410-040(9).

No person shall cause or allow the emissions of a plume, from any emissions unit other than a recovery

system or an acid plant, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty-minute period, except that these provisions do not apply when the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit soot blowing and grate cleaning necessary to the operation of the boiler facility. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the department be advised of the schedule. There shall be no more than one violation for any sixty-minute period.

(8) The provisions of WAC 173-410-040(7) shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed the applicable maximum.

(9) Each mill may petition for, and the department may establish by regulatory order, other opacity limits for a specific recovery system or acid plant providing:

(a) Compliance with all other applicable emission limits can be demonstrated; and

(b) Best practicable operation and maintenance procedures, as approved by the department, are continuously employed.

(10) Any person electing to apply for exceptions per the provisions of WAC 173-410-040(9) shall submit a program acceptable to the department. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.

(11) The opacity provisions of this chapter shall apply until an application is received by the department petitioning for a revised limit as allowed by WAC 173-410-040(9).

After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.

(12) Odors. No sulfite pulping mill shall cause or permit the emission of odors in such quantities of or such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

(13) Operation and maintenance. At all times, including periods of abnormal operations and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(14) No recovery system shall emit total reduced sulfur (TRS) gases in excess of 17.5 ppm for a daily average.

(15) More restrictive limits. Notwithstanding the specific emission limits set forth in this chapter, the department may, after notice and hearing, establish more restrictive emission limits if the department has reason to believe that the emission from the source is a cause of public nuisance or a cause of violation of ambient air quality standards. The source shall, within ninety days from notification of such occurrence, achieve operation that will prevent further recurrence of the nuisance or violation.

(16) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of the source using procedures contained in *Source Test Manual - Procedures for Compliance Testing*, state of Washington, department of ecology, on file at the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the source. The department shall be allowed to obtain a sample from any source. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-410-040, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-040, filed 8/20/80.]

WAC 173-410-042 Emission requirements of prior jurisdictions. Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-410-042, filed 3/6/85.]

WAC 173-410-045 Creditable stack height and dispersion techniques. The conditions of WAC 173-403-141 and 173-403-145 shall apply to all sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-410-045, filed 12/16/87.]

WAC 173-410-062 Monitoring requirements. (1) Each mill shall conduct routine monitoring of emissions in accordance with a program that has been approved by the department. Results of monitoring shall be reported within thirty days of the end of each calendar month and shall include data as follows:

(a) For the recovery system and acid plant:

(i) The average daily emissions of sulfur dioxide expressed as grams SO₂ per kilogram of air dried, unbleached pulp produced and the kilograms of SO₂ per day.

(ii) Daily average concentration of sulfur dioxide.

(iii) The date, time and concentration for each sulfur dioxide emission violation and the total number of hours that exceed the standard.

(iv) The results of particulate tests conducted during the month.

(b) For the blow system, the grams of sulfur dioxide per minute, on a fifteen minute average, per kilogram of air dried, unbleached pulp discharged from the digester.

(c) The average daily production of air dried, unbleached pulp.

(2) Each mill shall furnish, upon request of the department, such other pertinent data as the department may require to evaluate the mill's emission control program.

(3) All measurements shall be made in accordance with techniques approved by the department.

(4) Each mill shall be required to establish a program approved by the department for continuous opacity monitoring to demonstrate compliance with WAC 173-410-040(7) and to report the results to the department in a format and on a schedule set by regulatory order. If equipment for continuous monitoring of opacity is not available, continuous monitoring of operating parameters may be required as an alternate until continuous opacity monitoring equipment is available.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-062, filed 8/20/80.]

WAC 173-410-067 Report of startup, shutdown, breakdown or upset conditions. If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.

Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-410-067, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-410 WAC nor from the resulting liabilities for failure to comply.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-410-067, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-067, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-050 (Order DE 80-8), § 173-410-067, filed 3/21/80.]

WAC 173-410-071 Emission inventory. The owner or operator of any sulfite pulping mill shall submit an inventory of emissions from the source each year upon a

form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-410-071, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-410-071, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-071, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-050 (Order DE 80-8), § 173-410-071, filed 3/21/80.]

WAC 173-410-086 New source review. Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-410-086, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-061 (Order DE 80-16), § 173-410-086, filed 8/20/80. Statutory Authority: RCW 43.21A.080, 70.94.011, 70.94.152, and 70.94.331. 80-04-050 (Order DE 80-8), § 173-410-086, filed 3/21/80.]

WAC 173-410-087 Prevention of significant deterioration (PSD). The conditions of WAC 173-403-080 shall apply to all new and modified sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-410-087, filed 12/16/87.]

Chapter 173-415 WAC

PRIMARY ALUMINUM PLANTS

WAC	
173-415-010	Statement of purpose.
173-415-020	Definitions.
173-415-030	Emission standards.
173-415-040	Standards of performance.
173-415-041	Emission requirements of prior jurisdictions.
173-415-045	Creditable stack height and dispersion techniques.
173-415-050	New source review.
173-415-051	Prevention of significant deterioration (PSD).
173-415-060	Monitoring and reporting.
173-415-070	Report of startup, shutdown, breakdown or upset conditions.
173-415-080	Emission inventory.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-415-090 Operating permit. [Statutory Authority: RCW 70.94-.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-090, filed 8/14/80.] Repealed by 83-09-036 (Order DE 83-13), filed 4/15/83. Statutory Authority: Chapters 43.21A and 70.94 RCW.

WAC 173-415-010 Statement of purpose. These rules are enacted under the provisions of the 1969 amendments to the Washington Clean Air Act (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from primary aluminum reduction plants in order to provide for the systematic reduction and control of air pollution in the primary aluminum reduction industry; and

(2) Establish standards deemed to be technically feasible and reasonably attainable and revise such standards as new information and better technology are developed and become available.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-010, filed 8/14/80. Formerly WAC 18-52-010.]

WAC 173-415-020 Definitions. Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to primary aluminum mills as defined below.

(1) "Fluorides" means compounds of the element fluorine.

(2) "Forage" means grasses, pasture and other vegetation that is normally consumed or is intended to be consumed by livestock.

(3) "New source" means a source which commences construction after June 17, 1970. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.

(4) "Primary aluminum plant" means a plant which produces aluminum metal from aluminum oxide (alumina). For the purposes of this regulation "primary aluminum plant" is equivalent to "source."

(5) "Potline primary emission control system" means the equipment and procedures designed to collect and remove contaminants from the exhaust gases which are captured at the pot.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-415-020, filed 3/6/85. Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-020, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-020, filed 8/14/80. Formerly WAC 18-52-021.]

WAC 173-415-030 Emission standards. (1) All primary aluminum plants are required to meet the emission

standards of this chapter, as modified by chapter 173-403 WAC if applicable. Further, all primary aluminum plants are required to use reasonably available control technology which may be determined for some primary aluminum plants to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each plant and issue a regulatory order to the primary aluminum plant for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule.

(2) Fluoride.

(a) The emission of gaseous fluorides and particulate fluorides for all emissions units within a primary aluminum plant shall be restricted so that the ambient air and forage standards for fluorides established by chapter 18-48 WAC are not exceeded outside the property controlled by the aluminum plant owner or operator.

(b) By January 1, 1984, the potline primary emission control system for each potline shall be designed so that the control of fluoride emissions will be equivalent to a total fluoride collection efficiency of eighty percent for vertical stud soderberg and side worked prebake pots, eighty-five percent for horizontal stud soderberg pots, and ninety-five percent for center worked prebake pots and a primary emission control system with a design removal efficiency of at least ninety-five percent. A potline near the end of its useful life and scheduled for replacement or shutdown in a reasonable time period may not be required to retrofit provided ambient fluoride standards are being met.

(3) Particulate. The total emission of particulate matter to the atmosphere from the reduction process (potlines) shall be reduced to the lowest level consistent with RACT for primary aluminum plants, but in no case shall the emission of solid particulate exceed 7.5 grams per kilogram (fifteen pounds per ton) of aluminum produced on a daily basis. Compliance shall be determined by measurement methods contained in the *Source Test Manual - Procedures for Compliance Testing* on file with the department of ecology.

(4) Visible emissions. Visible emissions from any emissions unit in a primary aluminum plant shall not exceed an average twenty percent opacity for more than six consecutive minutes in any sixty minute period. This provision shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed twenty percent.

(5) Fallout. No primary aluminum plant shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the plant in such quantity or of such character or duration as is or is likely to be injurious to human health, plant or animal life, or property or will interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(6) Other contaminants. No primary aluminum plant shall cause or permit the emission of any air contaminant or water droplets, including any air contaminant whose emission is not otherwise regulated by this chapter, as is or is likely to be injurious to human health, plant or animal life, or property or which unreasonably interferes with enjoyment of life or property.

(7) Fugitive emissions. Each primary aluminum plant shall use reasonably available control technology to prevent fugitive emissions.

(8) Sulfur dioxide.

(a) Total emissions of sulfur dioxide from all emissions units shall not exceed thirty grams of sulfur dioxide per kilogram of aluminum produced on a monthly average (sixty pounds per ton). Those primary aluminum plants which were in excess of the above sulfur dioxide limit on January 1, 1978, will be allowed to emit at the January 1, 1978, level of emissions provided that the owners or operators demonstrate to the department by July 1, 1981, by use of modeling and ambient measurements, that the emissions will not cause the ambient standard to be exceeded.

(b) In no case shall any plant cause or permit the emission of a gas containing sulfur dioxide in excess of one thousand parts per million corrected to dry standard conditions. A lower limit may be established by an order defining RACT for a specific emissions unit or process.

(9) Odors. Any owner or operator of a primary aluminum plant who shall cause or allow the generation of any odor from any emissions unit which may unreasonably interfere with any person's use and enjoyment of his property must use recognized good practice and procedure to reduce these odors to a reasonable minimum.

(10) Operation and maintenance. At all times, including periods of abnormal operation and upset, owners and operators shall, to the extent practicable, maintain an affected facility, and operate and maintain air pollution control equipment associated with such facility in a manner consistent with good air pollution control practice. A plant may elect to establish a program, subject to the approval of the department, for monitoring each potroom in order to demonstrate good operation and maintenance.

(11) Source testing. In order to demonstrate compliance with this chapter, the department may require that a test be made of the plant using procedures contained in *Source Test Manual - Procedures for Compliance Testing*, state of Washington, department of ecology, on file at the department. The operator of the plant may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the plant shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-030, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-030, filed 8/14/80. Formerly WAC 18-52-031.]

WAC 173-415-040 Standards of performance. For primary aluminum plants which commenced construction after September 24, 1976, Title 40, the Code of Federal Regulations, Part 60, subparts A and S and appendix A, B, C and D (standards of performance for new stationary sources) as promulgated prior to July 1, 1982, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-020 (Order DE 82-21), § 173-415-040, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-040, filed 8/14/80. Formerly WAC 18-52-051.]

WAC 173-415-041 Emission requirements of prior jurisdictions. Any emissions unit that was under the jurisdiction of a cognizant local authority and now is under the jurisdiction of the department; or regulated by chapter 173-400 WAC and now is contained in this chapter shall meet all emission requirements that were applicable prior to transfer of jurisdiction.

[Statutory Authority: RCW 70.94.331. 85-06-048 (Order 84-50), § 173-415-041, filed 3/6/85.]

WAC 173-415-045 Creditable stack height and dispersion techniques. The conditions of WAC 173-403-141 and 173-403-145 shall apply to all sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-415-045, filed 12/16/87.]

WAC 173-415-050 New source review. Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. This owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-050, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-050, filed 8/14/80. Formerly 18-52-056.]

WAC 173-415-051 Prevention of significant deterioration (PSD). The conditions of WAC 173-403-080 shall apply to all new and modified sources covered by this chapter.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-057 (Order 87-50), § 173-415-051, filed 12/16/87.]

WAC 173-415-060 Monitoring and reporting. Each primary aluminum plant shall conduct routine monitoring of emissions, ambient air, and forage in accordance with a program that has been approved by the department. Results of monitoring shall be reported within

thirty days of the end of each calendar month and shall include data as follows:

(a) Ambient air: Twenty-four hour concentrations of gaseous fluoride in the ambient air expressed in micrograms of hydrogen fluoride per cubic meter of ambient air.

(b) Forage: Concentrations of fluoride in forage expressed in parts per million of fluoride on a dried weight basis.

(c) Particulate emission: Results of all emission sampling conducted during the month for particulates, expressed in grains per standard dry cubic foot, in pounds per day, and in pounds per ton of aluminum produced. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. Particulate data shall be reported as total particulates and percentage of fluoride ion contained therein.

Compliance with WAC 173-415-030(3) shall be determined by measurements of emissions from the potline primary control system plus measurements of emissions from the roof monitor.

(d) Fluoride emissions: Results of all sampling conducted during the month for fluoride emissions. All results shall be expressed as hydrogen fluoride in parts per million on a volume basis and pounds per day of hydrogen fluoride.

(e) Other emission and ambient air data as specified in the approved monitoring program.

(2) Each primary aluminum plant shall furnish, upon request of the department, such other data as the department may require to evaluate the plant's emissions or emission control program.

(3) Change in raw materials or fuel: Any change or series of changes in raw material or fuel which results in a cumulative increase in emissions of sulfur dioxide of five hundred tons per year or more over that stated in the 1979 inventory required by WAC 173-415-080 shall require the submittal of sufficient information to the department to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The department may issue regulatory orders requiring controls to reduce the effect of such increases.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-060, filed 8/14/80. Formerly WAC 18-52-061 and 18-52-071.]

WAC 173-415-070 Report of startup, shutdown, breakdown or upset conditions. If a startup, shutdown, breakdown or upset condition occurs which could result in an emission violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department, or its delegated authority, in advance of its occurrence.

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.

Upon request of the department or its delegated authority, the owner or operator of the source shall submit

a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-415-070, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-415 WAC nor from the resulting liabilities for failure to comply.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 83-09-036 (Order DE 83-13), § 173-415-070, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-070, filed 8/14/80. Formerly WAC 18-52-077.]

WAC 173-415-080 Emission inventory. The owner or operator of any primary aluminum plant shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, fluorides, volatile organic compounds, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

[Statutory Authority: Chapters 43.21A and 70.94 RCW. 89-02-055 (Order 88-39), § 173-415-080, filed 1/3/89; 83-09-036 (Order DE 83-13), § 173-415-080, filed 4/15/83. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-028 (Order DE 80-17), § 173-415-080, filed 8/14/80. Formerly WAC 18-52-086.]

Chapter 173-421 WAC MOTOR VEHICLE EMISSION CONTROL SYSTEMS

WAC

173-421-010	Purpose.
173-421-020	Assumption of jurisdiction and applicability.
173-421-030	Definitions.
173-421-100	Emission control systems.

WAC 173-421-010 Purpose. This chapter promulgated under RCW 70.94.305 and 70.94.331 establishes requirements to preserve emission control equipment installed on motor vehicles.

[Statutory Authority: Chapter 70.94 RCW. 87-19-078 (Order 87-17), § 173-421-010, filed 9/16/87.]

WAC 173-421-020 Assumption of jurisdiction and applicability. The department finds that the prevention and control of air pollution from motor vehicles should be regulated on a state-wide basis and, hereby assumes jurisdiction over motor vehicles for the purpose of controlling air contaminant emissions from the operation of such motor vehicles.

[Statutory Authority: Chapter 70.94 RCW. 87-19-078 (Order 87-17), § 173-421-020, filed 9/16/87.]

WAC 173-421-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to motor vehicle emission control systems as follows:

"Motor vehicle" means a self-powered operating vehicle or one capable of operating, designed to transport people or property, and of a type required to be licensed for operation on public highways.

[Statutory Authority: Chapter 70.94 RCW. 87-19-078 (Order 87-17), § 173-421-030, filed 9/16/87.]

WAC 173-421-100 Emission control systems. A person shall not remove or render inoperable any component or change any element of design of a motor vehicle including adjustments outside the range of manufacturer's specifications that could affect the amount of air contaminants emitted from that vehicle subject to the following conditions:

(1) Components of emission control systems may be disassembled and assembled for the purpose of repair and maintenance. These components or elements of design shall be restored to proper working order when they are repaired or maintained.

(2) When components of emission control systems require replacement they may be removed and replaced with a part intended by the vehicle manufacturer as a replacement part for that specific vehicle. Under circumstances established by the United States Environmental Protection Agency, an aftermarket replacement part may be used. A replaced part shall be installed and adjusted so that it is in proper working order.

[Statutory Authority: Chapter 70.94 RCW. 87-19-078 (Order 87-17), § 173-421-100, filed 9/16/87.]

Chapter 173-422 WAC MOTOR VEHICLE EMISSION INSPECTION

WAC

173-422-010	Purpose.
173-422-020	Definitions.
173-422-030	Vehicle emission inspection requirement.
173-422-040	Noncompliance areas.
173-422-050	Emission contributing areas.
173-422-060	Emission standards.
173-422-070	Test procedures.
173-422-080	Vehicle inspection data handling procedures.
173-422-090	Exhaust analyzer specifications.
173-422-100	Testing equipment maintenance and calibration.
173-422-110	Data system requirements.
173-422-120	Quality assurance.
173-422-130	Inspection fees.
173-422-140	Inspection forms and certificates.
173-422-145	Fraudulent certificates of compliance/acceptance.
173-422-150	Inspection personnel requirements.
173-422-160	Fleet testing requirements.
173-422-170	Exemptions.
173-422-175	Fraudulent exemptions.
173-422-180	Air quality standards.

(1989 Ed.)

WAC 173-422-010 Purpose. This chapter implements the Washington Clean Air Act, chapter 70.94 RCW, as supplemented by the motor vehicle emission inspection provisions codified as chapter 70.120 RCW.

Motor vehicles are the primary emitters of carbon monoxide and emit significant quantities of hydrocarbons and oxides of nitrogen. Emission controls required by the federal government are designed to reduce motor vehicle related air pollution. However, the effectiveness of these controls is substantially reduced through deterioration, maladjustment and tampering. Motor vehicle emission inspection serves to identify high polluting vehicles and to reduce emissions, when such can be accomplished at reasonable cost. These rules establish the emission standards, testing procedures, and associated activities necessary to implement a program of air pollution prevention and control involving motor vehicle emission inspections.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), § 173-422-010, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 80-03-070 (Order DE 79-35), § 173-422-010, filed 2/28/80.]

WAC 173-422-020 Definitions. Unless a different meaning is clearly indicated by context, the following definitions will apply:

(1) "Accuracy" means the degree of correctness by which the true value of a measured sample is determined.

(2) "Calibration gases" mean a blend of hydrocarbon (propane), carbon monoxide (CO), and carbon dioxide using nitrogen as carrier gas. The concentrations are to be traceable to within two percent of NBS standards.

(3) "Certificate of acceptance" means an official form, issued by someone authorized by the department, which certifies that all of the following conditions have been met: The recipient's vehicle initially failed to comply with applicable emission standards, the recipient has provided original receipts proving that more than fifty dollars were spent after the first test and before the final test on repairs and/or parts solely to meet emission standards, the vehicle on final reinspection again failed to meet such standards, and the repair information section of the test report has been completed.

(4) "Certificate of compliance" means an official form, issued by someone authorized by the department, which certifies that the following conditions have been met: The recipient's vehicle on inspection complied with applicable emission standards and inspection fees have been paid.

(5) "Dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(6) "Department" means the department of ecology.

(7) "Drift" means the change in the reading of the analyzer to a given sample over a period of time with no adjustment to the analyzer having been made between the initial and final measurements.

(8) "Emission contributing area" means a land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor

[Title 173 WAC—p 561]

vehicle related air quality standards in a noncompliance area. (The inspection program implemented by this chapter applies only to vehicles registered in emission contributing areas.)

(9) "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies, and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

(10) "Fleet" means a group of twenty-five or more motor vehicles owned or leased concurrently by one person.

(11) "Gaseous fuel" means liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(12) "Gross vehicle weight (GVW)" means the manufacturer stated gross vehicle weight rating.

(13) "HC and CO emissions" means the concentration of hydrocarbons (measured as n-hexane) and carbon monoxide in the engine exhaust.

(14) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(15) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

(16) "NBS" means National Bureau of Standards.

(17) "Noncompliance area" means a land area within whose boundaries any air quality standard for any air contaminant from the emissions of motor vehicles will probably be exceeded after December 31, 1982.

(18) "PPM" means parts per million by volume.

(19) "Repeatability" means the ability of an analyzer to report the same value for successive measurements of the same sample.

(20) "Response" means how quickly there is a change in reading following a change in concentration at the sample probe inlet.

(21) "Sensitivity" means the smallest change in the value of a measured sample that can be detected by the analyzer.

(22) "Zero calibration gases" means air or nitrogen in which total impurities do not exceed 0.01 percent.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), § 173-422-020, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120.80-03-070 (Order DE 79-35), § 173-422-020, filed 2/28/80.]

WAC 173-422-030 Vehicle emission inspection requirement. All motor vehicles, not specifically exempted by WAC 173-422-170, which are registered or reregistered within the boundaries of an emission contributing area, as specified in WAC 173-422-050, are subject to the vehicle emission inspection requirements of this chapter. Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area,

as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (1) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060, 70.120.080, or 70.120.090 or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (2) exempted from this requirement pursuant to RCW 46.16.015(2). The certificates must have a date of validation which is within ninety days of the date of application for the vehicle license or license renewal. Certificates for fleet vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), § 173-422-030, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120.80-03-070 (Order DE 79-35), § 173-422-030, filed 2/28/80.]

WAC 173-422-040 Noncompliance areas. The following areas are designated noncompliance areas for the air contaminants specified (these areas are set forth on maps on file with the department):

- (1) Carbon monoxide
 - (a) Parts of the city of Seattle.
 - (b) Parts of the city of Bellevue.
 - (c) Parts of the city of Spokane.
- (2) Ozone
 - The central Puget Sound basin.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), § 173-422-040, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120.82-02-027 (Order DE 81-32), § 173-422-040, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-040, filed 2/28/80.]

WAC 173-422-050 Emission contributing areas. Emission contributing areas within which the motor vehicle emission inspection program applies are designated by the following United States Postal Service ZIP codes as of the effective dates set forth below:

(1) Puget Sound Region (effective January 1, 1982)

98004	98039
98005	98040
98006	98041
98007	98043
98008	98046
98009	98052
98011	98053
98012	98055
98020	98056
98021	98057
98027	98062
98028	98063
98033	98072
98034	98073
98036	98083
98037	98101 thru 98199, inclusive except 98110

(2) Spokane Region (effective July 1, 1985)

99201	99207
99202	99208
99203	99212

99204 99216
 99205 99218
 99206

[Statutory Authority: RCW 70.120.120, 84-09-087 (Order DE 84-7), § 173-422-050, filed 4/18/84. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-050, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-050, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-050, filed 2/28/80.]

WAC 173-422-060 Emission standards. Motor vehicles subject to this chapter shall meet the following emission standards prior to receiving a certificate of compliance.

Model Year	STANDARDS		HC(ppm)
	CO(%) 4 or less* Cyl.	More Than 4 Cyl.	
71-74	6.0	5.0	1000
75-78	3.0	3.0	800
79 and later	3.0	3.0	600

When 1979 and later model vehicles were manufactured with a catalytic converter the standards are:

2.0	1.5	300
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*Includes all rotary engines

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-060, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-060, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-060, filed 2/28/80.]

WAC 173-422-070 Test procedures. All persons certified by, or under contract to, the department to conduct motor vehicle emission inspections shall use the following test procedures. Variations to the procedures specified may be used if approved by the department after receipt of evidence that such changes will not interfere with the validity of the test.

(1) An idle mode test shall be used to measure vehicle exhaust emissions for carbon monoxide, hydrocarbons, and carbon dioxide.

(2) The engine shall be at normal operating temperature during the emission test with all accessories off.

(3) Any vehicle causing an unsafe condition, such as the continuous leaking of any fluid onto the floor, may be rejected from the inspection site.

(4) Vehicles shall be approximately level during the test.

(5) Vehicles with more than one exhaust pipe shall be tested by sampling each tail pipe and averaging the results, unless the exhaust pipes originate from a common point in the exhaust system.

(6) The following steps shall be taken to prevent excessive dilution. The exhaust sample probe must be inserted at least ten inches into the tail pipe. If this is not possible, an extension boot shall be used. The exhaust emission test results shall not be recorded if the carbon

dioxide concentration does not meet or exceed five percent.

(7) If the engine stalls during the test, the engine shall be restarted and one additional attempt will be made to complete the test.

(8) If a vehicle is capable of being operated with either gasoline or gaseous fuels, the vehicle shall be tested using the fuel it is operating on when it enters the testing facility.

(9) If a multiple range analyzer is used, the exhaust analyzer range shall be selected so that the standard for the vehicles being tested is between twenty-five percent and seventy-five percent of full scale, if possible.

(10) Before testing a 1981 and later model Ford Motor Company vehicle with a gross vehicle weight of 8500 pounds or less, the engine shall be turned off and then restarted.

(11) For all vehicles, the engine shall be accelerated to one-third to one-half throttle (about 2500 rpm), with the transmission in neutral or park, and held there for fifteen seconds.

(12) With the engine idling, insert the probe into the tailpipe for at least thirty seconds. The exhaust emissions averaged over the last five seconds shall then be recorded. A shorter testing time may be used if the emission stabilization procedure in WAC 173-422-110 (2)(d) is used. When readings from multiple exhaust pipes are averaged, steps 10, 11, and 12 shall be repeated for all exhaust pipes.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-070, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-070, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-070, filed 2/28/80.]

WAC 173-422-080 Vehicle inspection data handling procedures. All persons under contract to the state to conduct motor vehicle emission inspections shall use the following data handling procedures.

(1) The comparison of the test results with the state's emission standards shall be automated.

(2) The emission test results, the comparison with the state's emission standards, and certificates of compliance shall be automatically printed.

(3) The required vehicle identification data shall be entered and validated before the emission test is started.

(4) Vehicle identification data flagged as incorrect by the established validation checks shall be corrected before the emission test is started.

(5) The emission test results shall be automatically printed.

(6) All required data shall be automatically printed on the vehicle inspection reports and stored on bulk storage devices.

(7) In the case of data handling equipment problems, the vehicle emission test reports and certificates of compliance may be manually completed, but all the data is required to be included on the bulk storage devices submitted to the department.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-080, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120.

82-02-027 (Order DE 81-32), § 173-422-080, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-080, filed 2/28/80.]

WAC 173-422-090 Exhaust analyzer specifications.

Only exhaust analyzers meeting the following specifications at the time of certification testing may be used for certification testing. The department will maintain a list of analyzers that have been certified by the manufacturers as meeting the specifications at the time of manufacture. The department does not require the use of these analyzers or guarantee the performance of these analyzers. Any person authorized by the department to certify vehicles is solely responsible for insuring that the testing equipment is operating within the following specifications at the time of certification testing.

(1) Accuracy: The readings or the printed test results of the exhaust analyzers compared to the true value of a measured sample shall have the following accuracy tolerances.

HC - Measured as n - hexane	
0 to 1000 ppm	±30 ppm
1000 to 2000 ppm	±100 ppm
CO	
0 to 5%	±0.2 %
5 to 10%	±0.5 %
CO ₂	
4 to 6%	±1%

(2) Calibration: The analyzer shall have the capability of being calibrated electronically and by gas.

(3) Drift: The drift of the zero reading or any calibration reading of each analyzer shall not exceed 20 ppm HC, 0.1% CO or 0.5% CO₂ in one hour.

(4) Flow restriction indicator: The analyzer shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with a visual and/or audible warning that sample flow is not within operating requirements.

(5) Interference effects: Sampling the following concentrations of noninterest gases shall not cause the HC reading to change ±10 ppm: 15% CO₂ in N₂, 10% CO in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO reading to change ±0.05%: 15% CO₂ in N₂, 1600 ppm HC in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO₂ reading to change ±0.5%: 1600 ppm HC in N₂, 10% CO in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

(6) Repeatability: The repeatability of the exhaust analyzers used shall be within 10 ppm HC, 0.05% CO and 0.2% CO₂ during five successive measurements of the same sample.

(7) Response: The response of the exhaust analyzers shall be at least ninety-five percent of the final value within fifteen seconds.

(8) Sensitivity: The sensitivity of each analyzer shall be equal to or less than 10 ppm HC, 0.05% CO and 0.2% CO₂.

(9) Range of measurement: The analyzer shall have a range equal to or greater than 0-2000 ppm HC (n-Hexane), 0 to 10% CO, and 0 to 6% CO₂.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-090, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-090, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-090, filed 2/28/80.]

WAC 173-422-100 Testing equipment maintenance and calibration. (1) Unless alternative procedures have been approved or required by the department all equipment used in the inspection shall be calibrated and maintained according to the manufacturer's specifications and recommendations. Complete logs as approved by the department shall be kept for maintenance, repair, and calibration.

(2) The following procedures shall be followed by all testing facilities unless equivalent procedures have been approved by the department. Exhaust analyzers and all electronic components that could affect the gas concentration results shall be warmed up for at least thirty minutes prior to performing any test on equipment, calibration, span, or zero checks:

(a) Each test. Before each test can start, the exhaust analyzer readings must be less than 20 ppm HC, 0.1% CO and 0.5% CO₂. If during a test the sampling system flow restriction indicator becomes activated, the test shall be stopped and restarted after the necessary repairs to the analyzer have been completed.

(b) Hourly check. The exhaust analyzer shall not be used to test vehicles unless within an hour prior to the test it was spanned with a calibration gas. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using a calibration gas.

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.

(c) Weekly check. The exhaust analyzer shall not be used to test vehicles unless within one week prior to the test it was spanned with a calibration gas. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using a calibration gas with a CO concentration of 0.6 to 2.4%, a HC concentration of 110 to 440 ppm measured as n-hexane, and a CO₂ concentration of 4.0 to 6.0%.

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.

(d) Monthly check. The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last thirty days. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using calibration gases of approximately twenty, forty, sixty, and eighty percent for each range. (CO₂ must be present at concentrations of at least 2.0%.)

Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090 at each calibration point.

(e) Repair check. A multipoint calibration as specified in WAC 173-422-100(d) shall be performed before the analyzer is used for certification testing following the replacement of an optical or electronic component that can cause a variation in the analyzer reading.

The manufacturer's recommended procedures to determine any change in the correction factor from the propane calibration gas to n-hexane readings shall be followed.

(f) Leak check. The exhaust analyzer shall not be used to test vehicles unless within one week prior to the testing, CO readings have been taken while introducing calibration gas through the calibration port and through the probe. Discrepancies of over 3% in the readings shall require repair of leaks. No analyzer adjustments shall be permitted during this check. Other leak check procedures may be used if it can be shown to the department's satisfaction that the method identifies leaks as well as the method in this subsection.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-100, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-100, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-100, filed 2/28/80.]

WAC 173-422-110 Data system requirements. The data system shall consist of the following units:

(1) Vehicle identification terminal. The vehicle identification terminal shall have a standard typewriter formatted keyboard with a visual display to verify data entered. The data entered shall be transferred to the programmable processor on command.

(2) Programmable processor. The programmable processor shall perform the following functions:

(a) Accept and validate vehicle and test data required in WAC 173-422-140 from the vehicle identification terminal, exhaust analyzer, or other sources. Indicate on the vehicle identification terminal any data entered that does not meet the validation criteria.

(b) Convert analog emission measurements to digital information for each analyzer range.

(c) Verify that there is no excessive dilution of the exhaust sample by determining the carbon dioxide concentration and provide carbon dioxide output signal to printer and bulk storage device.

(d) Compare test results to the state's emissions standards. Test results shall be determined by averaging five consecutive readings taken at one second intervals, at fifteen seconds after the probe has been inserted into the tailpipe. The results shall be considered stable and recorded if the five readings do not vary more than ten

percent of their average or 30 ppm HC, or 0.2% CO, or 1% CO₂ from their average, whichever is greater. If stability has not occurred before thirty seconds of testing, the thirty second reading along with four other consecutive readings shall be averaged and recorded as the result.

(e) Outputs vehicle and test data and established standards for report printout.

(f) Outputs vehicle and test data for storage on bulk storage devices.

(3) Report printer. The report printer shall print the vehicle inspection report and the certificate of compliance. The forms used shall be provided or approved by the department.

(4) Bulk storage devices. All data from the vehicle inspection report and the certificate of compliance shall be written on the bulk storage devices at the same time the printed report(s) are produced.

The data handling system shall be so designed to prevent any data changes on the bulk storage devices that would eliminate or alter the original entry.

Inspection shall be redone if errors result in an incorrect vehicle inspection report.

To insure that the bulk storage devices are compatible with the state's data processing equipment, all bulk storage devices and data handling methods used by the contractor shall be expressly approved by the department.

[Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-110, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-110, filed 2/28/80.]

WAC 173-422-120 Quality assurance. The department, or its designee, will monitor the operation of each authorized emission testing facility with unannounced, unscheduled inspections to check the calibration and maintenance of the exhaust analyzers, test procedures, and records.

Vehicle inspection reports and fiscal reports submitted by inspection station operators will be checked for completeness and accuracy. The department or its designee shall have the right to audit contractor's and subcontractor's records.

The department (or its designee) may conduct unidentified surveillance.

The department (or its designee) may require that the use of an exhaust analyzer be suspended due to a malfunction or incorrect calibration of the analyzer.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-120, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 80-03-070 (Order DE 79-35), § 173-422-120, filed 2/28/80.]

WAC 173-422-130 Inspection fees. A fee of nine dollars shall be collected for the first emission test on each vehicle applicable to each vehicle license year. If the vehicle fails, one retest will be provided free of charge at any inspection station operated under contract to the state, provided that the retest is requested within sixty days of the initial test. Any additional retests applicable to the same vehicle license year will require the payment of the same fee charged for the initial test.

Inspection station operators shall forward to the department within ten working days, the amount of fees due to the state for inspections conducted.

The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees.

[Statutory Authority: RCW 70.120.040(7), 87-02-051 (Order DE 86-32), § 173-422-130, filed 1/7/87, effective 4/1/87. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-130, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-130, filed 2/28/80.]

WAC 173-422-140 Inspection forms and certificates. All inspection stations shall use inspection forms and certificates provided or approved by the department. Additional diagnostic information may be provided to the vehicle operator. Other materials may be given the vehicle operator only if approved by the department.

(1) **Vehicle inspection report:** The driver of each vehicle tested shall be given a vehicle inspection report on a form to be provided or approved by the department. The inspection station operator shall provide the following information.

- (a) Station number (lane number).
- (b) Date and time of test(s).
- (c) Who conducted the test(s) (name or identification number).
- (d) Vehicle identification number (VIN).
- (e) Odometer reading in thousands of miles.
- (f) Vehicle license number.
- (g) Vehicle model year.
- (h) Make of the vehicle.
- (i) Number of cylinders.
- (j) Whether or not the vehicle was manufactured with a catalytic converter.
- (k) Gross vehicle weight class.
- (l) Emission test results.
- (m) Applicable standards.
- (n) Whether the vehicle has passed or failed the appropriate emission standards.
- (o) Carbon dioxide reading.
- (p) When and who issued a certificate of compliance or acceptance (name or identification number).
- (q) First test or retest.
- (r) All other information required on the form.

(2) **Certificate of compliance:** The driver of a vehicle meeting the appropriate emission standards shall be issued a certificate of compliance. A vehicle failing the initial test shall be allowed one free retest within sixty days of the initial test.

(3) **Certificate of acceptance:** If a vehicle has failed to pass the emission test applicable to any vehicle license year, the vehicle owner may request a certificate of acceptance. To receive the certificate of acceptance the vehicle owner must provide original receipts totalling at least fifty dollars, dated on or between the date of the first test and the final retest, for costs of repairs and/or parts solely devoted to meeting the emission standards. Guidelines for obtaining a certificate of acceptance are

on file with the department and printed on the emission test report.

(4) **Form storage:** Copies of each certificate of compliance/acceptance, and all vehicle inspection reports shall be kept on file by the contractor and be available for the department's review for one year after they are issued. This requirement includes forms that are voided for any reason.

(5) **Reporting:** The inspection station operator shall forward to the department within ten working days after the end of each month (a) an approved storage device containing all data collected from each inspection conducted that month, and (b) a copy of all certificates of acceptance issued that month along with the related vehicle inspection reports and repair and/or parts receipts.

Before the storage device is forwarded to the department, a backup bulk storage device shall be in the possession of the contractor. The backup bulk storage device shall be retained for one year and be available to the department upon request.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-140, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-140, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-140, filed 2/28/80.]

WAC 173-422-145 Fraudulent certificates of compliance/acceptance. (1)(a) Obtaining or attempting to obtain a certificate of compliance by (i) providing false information or (ii) any fraudulent means; or

(b) Obtaining or attempting to obtain a certificate of acceptance (i) through the use of receipts or other documentation containing false information, or (ii) without having expended more than fifty dollars after the first test and before the final test for repairs or parts solely devoted to meeting the emission standards, or (iii) any fraudulent means shall be construed as a violation of these rules implementing chapter 70.94 RCW as supplemented by chapter 70.120 RCW.

(2) Any person who commits such violation or who aids or abets another in committing the same shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(3) For the purposes of this section the term "expended" refers to the net actual cost to the vehicle owner in the purchase of repairs or parts derived after the amount of any rebate, discount or cash-return has been subtracted.

(4) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearing board as provided for in chapter 43.21B RCW.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-145, filed 11/23/83, effective 1/2/84.]

WAC 173-422-150 Inspection personnel requirements. (1) **Training.** All inspection personnel must successfully complete a training course approved by the department.

(2) **Inspection personnel identification.** Whenever inspection personnel are in contact with the public they shall wear identification tags visible to the motorist.

[Statutory Authority: RCW 70.120.120, 80-03-070 (Order DE 79-35), § 173-422-150, filed 2/28/80.]

WAC 173-422-160 Fleet testing requirements. Self-inspection of vehicles by a fleet operator may be authorized by the department. The department may also authorize emission inspection of fleet vehicles by an automotive service or testing facility engaged by the fleet for such activity. Authorizations to conduct emission tests and issue certificates of compliance under this section are limited to vehicles within the fleet or fleets requesting such authorization. Any person or facility conducting fleet tests under authorization of this section must meet all requirements of this section.

(1) The exhaust analyzers used for certification testing shall meet the specifications in WAC 173-422-090 except for those that pertain to CO₂. (CO₂ does not need to be measured.)

In order to utilize existing equipment as much as possible, the department may allow testing facilities to use analyzers that do not meet all the specifications of WAC 173-422-090 if the analyzers were purchased prior to December 31, 1981.

To qualify for this exception, the test facility must request a waiver for each analyzer, demonstrate to the satisfaction of the department that the analyzer and procedures being used will provide satisfactory emission tests, and obtain approval from the department prior to using the analyzer for certification testing. Any analyzer model that has been approved by the State of California Bureau of Automotive Repair will qualify for this exception.

(2) All persons engaged in testing of fleet vehicles must comply with all provisions of this chapter except WAC 173-422-080, 173-422-100 (2)(d), 173-422-110, 173-422-130, 173-422-140, and 173-422-150. The check specified in WAC 173-422-100 (2)(b)(i) and (ii) shall be performed within one hour prior to the test. The complete check specified in WAC 173-422-100 (2)(c) shall have been performed within one week prior to the test. The check specified in WAC 173-422-100 (2)(c), in addition to being required weekly, shall be performed after each relocation of the analyzer.

(3) All persons conducting tests for the purpose of issuing certificates for fleets shall demonstrate to the satisfaction of the department the knowledge and capability to calibrate and operate emission testing equipment, and perform an emission test according to WAC 173-422-070.

(4) The department will provide test forms upon request. Legibly completed forms with appropriate signature(s) will constitute certificates of compliance for licensing purposes. Any person conducting testing under this section shall forward to the department within ten working days after the end of each month, a copy of each certificate of compliance issued during that month. Copies of each certificate of compliance shall be retained by the person issuing the certificate for at least two years from date of issuance.

Forms must be purchased from the department in advance of issuance through payment of one dollar fifty

cents to the department for each certificate requested. Refunds may be given for unused certificates.

Test forms provided under this section are official documents. Persons receiving the forms from the department are accountable for each form provided.

Voided forms must be handled the same as certificates of compliance. One copy shall be sent to the department within ten days after the end of the month in which the form was voided and one copy shall be retained by the person accountable for the forms for at least two years after date of voiding. Refunds will not be made for voided forms.

(5) All persons authorized to conduct fleet inspections under this section shall be subject to performance audits and compliance inspections by the department, during normal business hours.

(6) Fleet vehicles may be inspected any time between their scheduled license renewals.

(7) Certificates of acceptance may not be issued under this section.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-160, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-160, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-160, filed 2/28/80.]

WAC 173-422-170 Exemptions. The following motor vehicles are exempt from the inspection requirement:

(1) Vehicles proportionally registered pursuant to chapter 46.85 RCW.

(2) Vehicles whose model year when subtracted from the calendar year equals or exceeds fourteen.

(3) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale; this does not exempt motor vehicles that are or have been leased.

(4) Motor vehicles that use propulsion units powered exclusively by electricity.

(5) Motor-driven cycles as defined by RCW 46.04.332.

(6) Motor vehicles powered by diesel engines or two-cycle engines.

(7) Farm vehicles.

(8) Vehicles exempted from licensing pursuant to RCW 46.16.010.

(9) Mopeds as defined by RCW 46.04.304.

(10)(a) Vehicles garaged and operated out of the emission contributing area and not returning prior to six months following the registration renewal date, may be exempted provided the registered owner/authorized agent provides a signed statement which includes:

(i) The registered owner's name and address.

(ii) The vehicle license number.

(iii) A statement that the vehicle is now garaged and operated outside the emission contributing area and will not be returning to the emission contributing area prior to six months following the registration renewal date.

(b) Vehicles garaged and operated out of the emission contributing area and returning to the emission contributing area within six months after the registration renewal date may postpone the emission testing

requirements provided the registered owner/agent provides a signed exemption statement which includes:

- (i) The registered owner's name and address.
- (ii) The vehicle license number.
- (iii) A statement that the vehicle will not be returning to the emission contributing area prior to the registration renewal date.
- (iv) A statement that within thirty days of returning to the emission contributing area the vehicle will be tested and a valid certificate of compliance or a certificate of acceptance will be obtained and forwarded to the department.

(v) The date of departure from the emission contributing area.

(vi) The anticipated date of return to the emission contributing area.

(11) Vehicles registered with the state but not for highway use.

(12) Used vehicles which are offered for sale by a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(13) Motor vehicles fueled exclusively by propane, compressed natural gas, or liquid petroleum gas.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-170, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120, 82-02-027 (Order DE 81-32), § 173-422-170, filed 12/31/81; 80-03-070 (Order DE 79-35), § 173-422-170, filed 2/28/80.]

WAC 173-422-175 Fraudulent exemptions. (1) Obtaining or attempting to obtain an exemption from emission inspection requirements by false statements, or failure to comply with the exemption procedures established to implement WAC 173-422-170, shall be construed as a violation of these rules implementing chapter 70.94 RCW as supplemented by chapter 70.120 RCW.

(2) Any person who commits such violation or who aids or abets another in committing the same shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(3) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control board as provided for in chapter 43.21B RCW.

[Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1), 83-23-115 (Order DE 83-31), § 173-422-175, filed 11/23/83, effective 1/2/84.]

WAC 173-422-180 Air quality standards. The air quality standards set forth in chapter 173-415 WAC are the air quality standards applicable to the establishment of noncompliance areas pursuant to this chapter.

[Statutory Authority: RCW 70.120.120, 80-03-070 (Order DE 79-35), § 173-422-180, filed 2/28/80.]

Chapter 173-425 WAC OPEN BURNING

WAC

- | | |
|-------------|--|
| 173-425-010 | Purpose. |
| 173-425-020 | Applicability. |
| 173-425-030 | Definitions. |
| 173-425-036 | Curtailment during episodes or impaired air quality. |

- | | |
|-------------|--|
| 173-425-045 | Prohibited materials. |
| 173-425-055 | Exceptions. |
| 173-425-065 | Residential open burning. |
| 173-425-075 | Commercial open burning. |
| 173-425-085 | Agricultural open burning. |
| 173-425-095 | No burn area designation. |
| 173-425-100 | Delegation of agricultural open burning program. |
| 173-425-115 | Limited outdoor burning. |
| 173-425-120 | Department of natural resources—Smoke management plan. |
| 173-425-130 | Notice of violation. |
| 173-425-140 | Remedies. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 173-425-035 | Episodes. [Order DE 77-19, § 173-425-035, filed 10/24/77. Formerly WAC 18-12-035.] Repealed by 89-02-055 (Order 88-39), filed 1/3/89. Statutory Authority: Chapters 70.94 and 43.21A RCW. |
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WAC 173-425-010 Purpose. This rule, promulgated under chapter 70.94 RCW, the Washington State Clean Air Act, authorizes the department of ecology to implement the provisions of that act. This rule establishes controls for open burning in the state in order to:

- (1) Minimize the impact of emissions from open burning;
- (2) Establish rules and procedures by which open burning may be conducted;
- (3) Encourage the development and specify the use of alternate methods of disposal of combustible waste materials.

[Order DE 77-19, § 173-425-010, filed 10/24/77. Formerly WAC 18-12-010.]

WAC 173-425-020 Applicability. This chapter applies to open burning in all of the state, except to:

- (1) Burning of field and turf grasses grown for seed (governed by chapter 173-430 WAC).
- (2) Open burning within the boundaries of any activated air pollution control authority, where that authority is enforcing its own controls for open burning. These controls shall not be less stringent than the requirements in this chapter.
- (3) Open burning for activities subject to the permit issuing authority of the department of natural resources, as given in RCW 70.94.660.

[Order DE 77-19, § 173-425-020, filed 10/24/77. Formerly WAC 18-12-020.]

WAC 173-425-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings, general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to open burning as defined below.

- (1) "Agricultural open burning" means open burning conducted as part of any agricultural operation; but not including yard and gardening activities connected with a residence.
- (2) "Commercial open burning" means open burning conducted as part of any commercial or business operation, including land clearing when the land is cleared to

change the use of the cleared land. Commercial open burning does not include agricultural open burning.

(3) "Episode" means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as given in chapter 173-435 WAC.

(4) "Impaired air quality" means a condition declared by the department or an air authority whenever:

(a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:

(i) Total suspended particulate at an ambient level of one hundred twenty-five micrograms per cubic meter measured on a twenty-four-hour average; or

(ii) Particulate that is ten micron and smaller in diameter (PM10) at an ambient level of ninety micrograms per cubic meter measured on a twenty-four-hour average; or

(iii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average; or

(b) Air quality reaches other limits established by the department or an air authority.

(5) "Land clearing" means removing structures, trees, shrubbery, or other natural vegetation from a plot of land.

(6) "No burn area" means an area designated by the department as an area exceeding or threatening to exceed a state ambient air quality standard.

(7) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion.

(8) "Small fire" means a fire not more than four feet in diameter or more than three feet high.

(9) "Silvicultural operation" means the growing of trees for commercial or recreational use, including preparing the land, planting, growing, and harvesting of trees.

(10) "Treated wood" means wood of any species that has been chemically impregnated, coated, painted, or similarly modified.

(11) "Wood waste residue" means residue of a natural character such as trees, stumps, shrubbery, or other natural vegetation arising from land clearing projects (RCW 70.94.750(2)).

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-030, filed 1/3/89; Order DE 77-19, § 173-425-030, filed 10/24/77. Formerly WAC 18-12-030.]

WAC 173-425-036 Curtailment during episodes or impaired air quality. (1) No open fire shall be ignited:

(a) Whenever the department has declared an air pollution episode for the geographical area pursuant to chapter 173-435 WAC; or

(b) Whenever the department or an air authority has declared impaired air quality for the geographical area.

(2) A person responsible for an open fire at the time an episode or impaired air quality is declared shall extinguish that fire. Open fires conducted under the auspices of the department of natural resources for the

purpose of burning forest slash pursuant to RCW 70.94-.660 through 70.94.700 are to be extinguished by withholding new fuel and allowing the fire to burn down.

(3) Smoke visible from a small fire after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful open burning.

(4) Smoke visible from a fire other than a small fire after a time period of ten hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful open burning.

(5) The department, air authorities, health departments, fire departments, or local police forces having jurisdiction in the area may enforce compliance with the above open burning curtailment rules.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-036, filed 1/3/89.]

WAC 173-425-045 Prohibited materials. Except as provided in WAC 173-425-055, the following materials shall not be burned in any open fire:

- (1) Garbage;
- (2) Dead animals;
- (3) Asphaltic products;
- (4) Waste petroleum products;
- (5) Paints;
- (6) Rubber products;
- (7) Plastics;
- (8) Treated wood;
- (9) Any substance, other than natural vegetation, which normally emits dense smoke or obnoxious odors.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-045, filed 1/3/89; Order DE 77-19, § 173-425-045, filed 10/24/77. Formerly WAC 18-12-045.]

WAC 173-425-055 Exceptions. Exceptions to this chapter shall be made only as follows:

(1) When ordered by a duly authorized health officer and when authorized by the department, diseased animals and other infested material may be burned, as required, to keep the infestation from spreading.

(2) When ordered by a fire protection agency and when authorized by the department, fires to dispose of materials presenting a danger to life, property, or public welfare may be burned, if no approved practical alternate method of disposal is available.

(3) When approved by the department, fires authorized by a fire protection agency as necessary for training may be burned.

(4) When approved by the department, fires set as part of a defined research project may be burned.

(5) The following fires may be burned, if they do not contain prohibited materials, as provided in WAC 173-425-045:

(a) Fires set for recreational, religious ceremony, food preparation, or social purposes;

(b) Small fires set for hand-warming purposes.

(6) At any solid waste disposal site, compliance with any schedule given in any comprehensive solid waste management plan approved by the department shall be

considered compliance with this chapter. For any solid waste disposal site not subject to an approved plan, the department may authorize up to six months for a corrective program. If more time is needed, and no comprehensive solid waste management plan has been adopted covering a solid waste disposal site, a compliance schedule for meeting the requirements of this chapter will be adopted by the department for the site.

[Order DE 77-19, § 173-425-055, filed 10/24/77. Formerly WAC 18-12-055.]

WAC 173-425-065 Residential open burning. (1) No open fire shall be allowed on the premises of any residence:

(a) Within a no burn area designated in WAC 173-425-095;

(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;

(c) If the fire contains prohibited materials, as given in WAC 173-425-045;

(d) If the fire contains any material other than wood, paper, and natural vegetation; or

(e) If the fire is larger than a small fire.

The premises of a residence include the real property immediately adjacent to the residence which is owned by the same person who owns the residence, and which is not devoted to agricultural use, other than yard and gardening activities connected with the residence.

(2) Small fires on the premises of a residence may be allowed to dispose of wood, paper, and natural vegetation, if:

(a) None of the provisions of subsection (1) of this section are violated;

(b) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits, to prevent or abate nuisances, or any local county or city ordinance or resolution pertaining to a nuisance; and

(c) Reasonable precautions are taken to prevent particulate emissions when paper is being burned.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-065, filed 1/3/89; Order DE 77-19, § 173-425-065, filed 10/24/77. Formerly WAC 18-12-065.]

WAC 173-425-075 Commercial open burning. (1) No permit shall be issued for commercial open burning, and commercial open burning shall not be conducted:

(a) Within a no burn area designated in WAC 173-425-095;

(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;

(c) If the burning contains prohibited materials, as provided in WAC 173-425-045; or

(d) Where a practical alternate method of disposal listed in WAC 173-425-115(2), is reasonably available.

(2) No commercial open burning shall be conducted without authorization from the department. Open burning shall be authorized only if:

(a) The applicant shows that no approved practical alternate method of disposal is reasonably available; and

(b) The applicant shows that burning, as requested, is reasonably necessary to successfully carry out the enterprise the applicant is engaged in; and

(c) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits, to prevent or abate nuisances, or any local county or city ordinance or resolution pertaining to a nuisance.

(3) Considering population concentration and local conditions affecting air quality, the department shall condition permits issued under this chapter. Permits shall be conditioned to minimize air pollution as much as practical but are not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-075, filed 1/3/89; Order DE 77-19, § 173-425-075, filed 10/24/77. Formerly WAC 18-12-075.]

WAC 173-425-085 Agricultural open burning. (1) No permit shall be issued for agricultural open burning, and agricultural open burning shall not be conducted:

(a) Within a no burn area designated in WAC 173-425-095;

(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;

(c) If the burning contains prohibited materials, described in WAC 173-425-045; or

(d) If the burning contains any material other than natural vegetation and wood wastes generated on the property, which is the burning site, or transported to the burning site by wind or water.

(2) Except as provided in subsection (3) of this section, agricultural open burning shall not be conducted without a permit from the department. Permits shall be issued only if:

(a) None of subsection (1) of this section would be violated by the burning;

(b) The applicant shows that burning, as requested, is reasonably necessary to successfully carry out the enterprise the applicant is engaged in;

(c) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits to prevent or abate nuisances, or any local county or city ordinance or resolution pertaining to a nuisance; and,

(d) The burning is necessary to control disease or insect infestation, and other measures are not available; or

(e) The burning is necessary to develop physiological conditions conducive to increased crop yield, and other measures are not available.

In making a determination under (d) or (e) of this subsection, the department will consult the county extension agent.

(3) Agricultural open burning may be conducted without a permit if:

(a) None of subsection (1) of this section would be violated by the burning;

(b) The burning will not violate any regulations of a local fire protection agency authorized to issue burning

permits to prevent or abate nuisances, or any local or city ordinance or resolution pertaining to a nuisance; and

(c) The fire covers one acre or less and the burning is done to destroy obnoxious weeds or crop residue along fence rows, ditches, or in cultivated fields.

(4) Considering population concentration and local conditions affecting air quality, the department shall condition permits issued under this chapter. Permits shall be conditioned to minimize air pollution as much as practical. Conditions may include but are not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-085, filed 1/3/89; Order DE 77-19, § 173-425-085, filed 10/24/77. Formerly WAC 18-12-085.]

WAC 173-425-095 No burn area designation. (1) The department shall designate as no burn areas those geographic areas where ambient air quality standards for particulate matter, set forth in WAC 173-470-100, are being exceeded or are threatened to be exceeded. These designations shall be based on monitoring data gathered at primary air mass stations.

(2) The department shall not designate "no burn" areas within the boundaries of any activated air pollution control authority, unless data exist to support that designation and the authority, after being notified, refuses to make such a designation.

(3) The designation of any area as a "no burn" area by the department shall be made by rule-making procedure and only after public hearing.

(4) Open burning shall not be conducted in any designated "no burn" area.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-095, filed 1/3/89; Order DE 77-19, § 173-425-095, filed 10/24/77. Formerly WAC 18-12-095.]

WAC 173-425-100 Delegation of agricultural open burning program. (1) When the department finds that any county, which is outside the jurisdictional boundaries of an activated air pollution control authority, is capable of administering the permit program of WAC 173-425-085 and desires to do so, the department may delegate the administration of the program to the county.

(2) This delegation may be withdrawn if the department finds that the county is not effectively administering the permit program. Before withdrawing delegation, the department shall give the county a chance to correct permit program deficiencies.

[Order DE 77-19, § 173-425-100, filed 10/24/77. Formerly WAC 18-12-100.]

WAC 173-425-115 Limited outdoor burning. (1) To further the policies of this chapter and policies expressed in RCW 70.94.745, the department has determined, that alternate technology and methods exist for disposing of wood waste residue resulting from highway right of way

land clearing projects or commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards). Further, these methods and technology are considered less harmful to the environment than open burning. These alternates are also reasonably economical when the cost of disposal is nine hundred dollars or less per acre.

(2) These alternate methods and technology are:

(a) Chipping, with chips disposed of commercially or by on-site dispersal, haul to landfill, burning in an approved way, or other approved methods, as may be available.

(b) Hauling for disposal elsewhere, such as landfill, commercial use, or other approved methods, as may be available.

(c) On-site disposal in landfill.

(d) On or off-site disposal by a waste combustion method capable of complying with the emission standards set forth in WAC 173-425-115(3).

(3) As a result of the determination made in WAC 173-425-115(1) for disposing of wood waste residue that results from highway right of way land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards) or from commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards):

(a) No person shall cause or permit the emission, for more than three minutes in any one hour, of an air contaminant from any disposal method covered by WAC 173-425-115 which, at the emission point or within a reasonable distance from the emission point, exceeds twenty percent opacity, except as follows:

(i) The emission may exceed twenty percent opacity for the first fifteen minutes after a startup, for not more than two startups every twenty-four hours.

(ii) When the person responsible for the source can show that the emission over twenty percent opacity will not exceed fifteen minutes in any eight consecutive hours after startup.

(b) No person shall cause or permit the emission of particulate matter from any source, which then becomes deposited beyond the property directly controlled by the owner or operator of the source in sufficient quantity to interfere unreasonably with using and enjoying the property where the material was deposited. (WAC 173-400-040(2)).

(c) No person shall cause or permit the emission of any air contaminant or water vapor from any source, including any air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant or water vapor harms the health, safety, or welfare of any person or damages property or business. (WAC 173-400-040(5)).

(4) Using alternates listed in WAC 173-425-115(2) is reasonably economical for the projects described in WAC 173-425-115(3) when the alternates can be provided without delay in the project which will create an economic or other hardship, and without costing more than nine hundred dollars per acre.

If the requirement to use an alternate will cause a delay of sixty days or more in completing a project, then the alternate will not be required. Any delay shorter than sixty days will be evaluated on a case-by-case basis.

If the cost of disposing of the wood waste residue is greater than nine hundred dollars per acre, then the alternate will not be required. The cost of clearing and grubbing will not be considered as part of the cost of disposal, unless certain additional costs are required to use the alternate, such as the cost of building a road which would not otherwise be required.

(5) Using an alternate must comply with all other applicable statutes, regulations, ordinances, and/or resolutions of state or local government entities. These include noise regulations, solid waste regulations, and those requirements of local air pollution control authorities which are more stringent than those of the department.

(6) The requirements for owner or operator of the source to comply with WAC 173-425-115 (3)(a) may be waived. Open burning may then be authorized by the department or air pollution control authority, as appropriate, if the owner or operator of the source shows, to the department or air pollution control authority, that:

(a) A delay will result from using the alternates, causing an economic or other hardship;

(b) Other legal requirements may be violated;

(c) A bid cannot be obtained for disposal using an alternate described in WAC 173-425-115, at a cost of nine hundred dollars per acre or less; or

(d) The wood waste residue to be disposed of from the land clearing project is less than five hundred tons (two thousand cubic yards).

(7) The department or air pollution control authority may charge a fee to cover administrative costs of processing the waiver request.

(8) When an alternate is to be used at any site for six or more months, the requirements of WAC 173-400-110 (notice of construction) shall be met.

(9) In this chapter, land clearing projects located close to one another and burned near the same time, which appear to be a single project, shall be presumed to be one project.

(10) In this chapter, normal clearing and grubbing do not include any activity or action related to using alternate methods and technology listed in WAC 173-425-115(2).

(11) In this chapter, one cubic yard of wood waste residue equals five hundred pounds.

[Order DE 77-19, § 173-425-115, filed 10/24/77. Formerly WAC 18-12-115.]

WAC 173-425-120 Department of natural resources—Smoke management plan. The department of natural resources has the responsibility for issuing and regulating burning permits for open fire in areas protected by the department of natural resources, when such fires are for:

- (1) Abating a forest fire hazard;
- (2) Preventing a fire hazard;

[Title 173 WAC—p 572]

(3) Instructing public officials in methods of forest fire fighting;

(4) Any silvicultural operation to improve the forest lands of the state.

Fires set for these purposes must be conducted according to the provisions of the smoke management plan administered by the department of natural resources in agreement with the department of ecology and other involved agencies.

[Order DE 77-19, § 173-425-120, filed 10/24/77. Formerly WAC 18-12-120.]

WAC 173-425-130 Notice of violation. The department may issue a notice of violation to the person responsible for the fire when:

(1) Conditions of a permit issued under this chapter are violated;

(2) Any open fire is ignited or, if ignited, is not extinguished, when a condition of impaired air quality or any air pollution episode stage has been declared;

(3) An open fire is ignited where, under this chapter, such fires are prohibited or where a permit is required and no such permit has been obtained;

(4) Prohibited materials are burned in an open fire.

Procedures for notices of violation shall follow RCW 70.94.332.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-425-130, filed 1/3/89; Order DE 77-19, § 173-425-130, filed 10/24/77. Formerly WAC 18-12-130.]

WAC 173-425-140 Remedies. Any violation of this chapter may be subject to any penalty or other remedy given in chapter 70.94 RCW.

[Order DE 77-19, § 173-425-140, filed 10/24/77. Formerly WAC 18-12-140.]

Chapter 173-430 WAC

BURNING OF FIELD AND FORAGE AND TURF GRASSES GROWN FOR SEED

WAC

173-430-010	Purpose.
173-430-020	Definitions.
173-430-030	Permits, conditions, and restrictions.
173-430-040	Mobile field burners.
173-430-050	Other approvals.
173-430-060	Study of alternatives.
173-430-070	Fees.
173-430-080	Certification of alternatives.

WAC 173-430-010 Purpose. (1) These rules are enacted under the provisions of the Washington State Clean Air Act, chapter 70.94 RCW, as amended, to assume state jurisdiction over and to control emissions from the burning of field and forage, and turf grasses grown for seed.

(2) Authority to enforce all provisions of this regulation, including establishing permit conditions and issuing permits, is delegated to and shall be carried out by all activated air pollution control authorities. In those areas not under the jurisdiction of any activated air pollution

control authority, the department of ecology shall enforce these regulations, including establishing permit conditions and issuing permits.

(3) The purpose of this chapter is to:

(a) Minimize adverse effects on air quality from the open burning of field and forage, and turf grasses grown for seed;

(b) Provide for implementation of a research program to explore and identify economical and practical alternative agricultural practices to the open burning of field and forage, and turf grasses grown for seed;

(c) Provide for interim regulation of such burning until practical alternatives are found.

[Order DE 77-20, § 173-430-010, filed 11/9/77. Formerly WAC 18-16-010.]

WAC 173-430-020 Definitions. (1) Department: The department of ecology.

(2) Director: The director of the department of ecology.

(3) Emissions: A release of air contaminants into the outdoor atmosphere.

(4) Field and forage grasses: Canarygrass, brome-grass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.

(5) Open burning: The combustion of material in the open or in a container, with no provisions for control of the combustion or control over the combustion products.

(6) Particulate: A small discrete mass of solid or liquid matter, not including uncombined water.

(7) Standard conditions: 60°F and 29.92 inches of mercury.

(8) Straw: All material, other than seed, removed by swathing, combining, or cutting.

(9) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.

[Order DE 77-20, § 173-430-020, filed 11/9/77. Formerly WAC 18-16-020.]

WAC 173-430-030 Permits, conditions, and restrictions. (1) No open burning of field or forage grasses, or turf grasses shall be undertaken unless a permit has been obtained from the department or from an activated air pollution control authority, as appropriate. The issuance of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution effects as far as practical. Until approved alternatives become available, the department or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions from this source.

(2) The department or activated air pollution control authority may deny permits or establish permit conditions based on the considerations cited in WAC 173-430-030(1).

Permit conditions may include requirements for straw removal and limits on acreage to be burned. Burning of acreage not previously under permit may be banned or subject to more restrictive conditions. Burning of field and forage grasses may be restricted, and other measures may be required to minimize air pollution effects.

Permits issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land, except land transferred to a spouse, son, or daughter, will retain a permit history as established by the original applicant.

Permit history will be established only for the maximum amount of acreage included in any permit issued before 1978.

Denying permits or establishing more restrictive permit conditions may become necessary. This denial or restriction may first be applied to applicants without a permit history and to amounts of acreage not included in an applicant's permit history.

Applicants who received permits before 1978 may be given priority for burning the amount of acreage cited in the permit history, if any program is implemented to limit acreage burned or to impose more stringent permit conditions.

(3) Open burning of field and forage grasses shall be prohibited. However, a permit may be issued to burn field and forage grasses for disease, pest, or weed control, if such need is certified by a county agent or other agricultural authority; or if such grasses were planted as part of a soil erosion control plan approved by a conservation district.

(4) Permit restrictions or conditions for burning turf grasses may be established for the reasons cited in WAC 173-430-030(3).

(5) Open burning of all grasses scheduled for tear-out shall be prohibited unless a permit specifically allows such burning.

(6) Practical alternative production methods and disease controls which would reduce or eliminate open burning shall be used when reasonably available. These methods and controls shall be used regardless of specific provisions of the compliance program described in this section.

[Order DE 77-20, § 173-430-030, filed 11/9/77. Formerly WAC 18-16-030.]

WAC 173-430-040 Mobile field burners. Mobile field burners, and other methods of incineration not classified as open burning, shall not be prohibited by the restrictions in WAC 173-430-030: *Provided*, That emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20 percent for more than three minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard cubic foot of exhaust gas, corrected to seven percent oxygen at standard conditions, dry.

[Order DE 77-20, § 173-430-040, filed 11/9/77. Formerly WAC 18-16-040.]

WAC 173-430-050 Other approvals. Nothing in this chapter shall relieve any applicant for a permit

hereunder from obtaining permits, licenses, or approvals required by any other laws, regulations, or ordinances.

[Order DE 77-20, § 173-430-050, filed 11/9/77. Formerly WAC 18-16-050.]

WAC 173-430-060 Study of alternatives. The department shall conduct, cause to be conducted, or approve of a study or studies to explore and identify economical and practical alternative practices to open burning of field and forage, and turf grasses grown for seed. To conduct any such study, the department may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. The department shall annually review the progress of such studies. The department shall, by January 1, 1981, review provisions of this regulation and available alternatives to open burning and determine if continuing open burning of field and forage, and turf grasses is justified.

[Order DE 77-20, § 173-430-060, filed 11/9/77. Formerly WAC 18-16-060.]

WAC 173-430-070 Fees. (1) To support the study or studies described in WAC 173-430-060, the department or activated air pollution control authority, as appropriate, shall collect a fee of fifty cents per acre of crop to be burned before any permit is issued under WAC 173-430-030. This fee shall be submitted with individual permit applications.

(2) When a permit is granted to burn fewer acres than requested in the permit application, the department or authority, as appropriate, shall refund to the permit applicant that part of the permit fee which applies to the acreage not permitted to burn.

(3) Permits issued under this chapter grant approval to burn the number of acres specified in the permit. If, after receiving a permit, a grower burns fewer acres than allowed under the permit, no part of the permit fee will be refunded.

(4) After granting any permit and making any refund required under WAC 173-430-070(2), any authority shall transfer the permit fee to the department.

(5) The department shall deposit all permit fees in a special grass seed burning research account in the general fund.

(6) The department shall allocate moneys annually from this account to support approved studies provided for in WAC 173-430-060, up to the amount appropriated to the department for such purpose.

(7) When the department concludes that enough reasonably available alternative practices to the open burning of field and forage, and turf grasses grown for seed have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved. Any money remaining in the account shall revert to the general fund.

[Order DE 77-20, § 173-430-070, filed 11/9/77. Formerly WAC 18-16-070.]

WAC 173-430-080 Certification of alternatives. When enough information on alternative practices to

[Title 173 WAC—p 574]

open burning becomes available, the department shall conduct public hearings to receive testimony from interested parties. If the department then concludes that any procedure, program, technique, or device is a practical alternative to the open burning of field and forage, or turf grasses grown for seed, the department shall, by order, approve such alternative. After approval, any alternative that is reasonably available shall be used; and open burning of field and forage, and turf grasses grown for seed shall not be allowed.

[Order DE 77-20, § 173-430-080, filed 11/9/77. Formerly WAC 18-16-080.]

Chapter 173-433 WAC

SOLID FUEL BURNING DEVICE STANDARDS

WAC

173-433-010	Purpose.
173-433-020	Applicability.
173-433-030	Definitions.
173-433-100	Emission performance standards.
173-433-110	Opacity standards.
173-433-120	Prohibited fuel types.
173-433-130	General emission standards.
173-433-150	Curtailement.
173-433-170	Retail sales fee.
173-433-200	Regulatory actions and penalties.

WAC 173-433-010 Purpose. This chapter, promulgated under chapters 43.21A and 70.94 RCW, establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-056 (Order 87-44), § 173-433-010, filed 12/16/87.]

WAC 173-433-020 Applicability. The provisions of this chapter apply to solid fuel burning devices in all areas of the state of Washington.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-056 (Order 87-44), § 173-433-020, filed 12/16/87.]

WAC 173-433-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings, general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to solid fuel burning devices as defined below:

(1) "Adequate source of heat" means the ability to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a dwelling.

(2) "Certified" means that a woodstove meets emission performance standards when tested by an accredited independent laboratory according to EPA or DEQ procedures.

(3) "Coal-only heater" means an enclosed, coal burning appliance capable of and intended for space heating, domestic water heating, or indoor cooking, which has all of the following characteristics:

(a) An opening for emptying ash which is located near the bottom or the side of the appliance;

(b) A system which admits air primarily up and through the fuel bed;

(c) A grate or other similar device for shaking or disturbing the fuel bed or power driven mechanical stoker; and

(d) The model is listed by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.

(4) "Dealer" means a person other than a manufacturer or a retailer who is engaged in selling solid fuel burning devices to retailers or others for resale.

(5) "DEQ" means Oregon department of environmental quality.

(6) "EPA" means United States Environmental Protection Agency.

(7) "Impaired air quality" means a condition declared by the department or an air authority whenever:

(a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:

(i) Total suspended particulate at an ambient level of one hundred twenty-five micrograms per cubic meter measured on a twenty-four hour average; or

(ii) Particulate that is ten micron and smaller in diameter (PM10) at an ambient level of ninety micrograms per cubic meter measured on a twenty-four hour average; or

(iii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average; or

(b) Air quality reaches other limits established by the department or an air authority.

(8) "Manufacturer" means any person who constructs or imports a solid fuel burning device or parts for a solid fuel burning device.

(9) "New woodstove" means a woodstove that has not been sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer, and has not been so used as to become what is commonly known as "second hand" within the ordinary meaning of that term.

(10) "Retailer" means any person engaged in the sale of solid fuel burning devices directly to the public. A contractor who sells dwellings with solid fuel burning devices installed or a mail order outlet which sells solid fuel burning devices directly to the public is considered to be a solid fuel burning device retailer.

(11) "Seasoned wood" means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

(12) "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

(13) "Treated wood" means wood of any species that has been chemically impregnated, painted, or similarly modified.

(14) "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for space heating and domestic water heating that meets all of the following criteria:

(a) For the purposes of determining qualification under "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984: An air-to-fuel ratio in the combustion chamber less than 30.0 during the burning of ninety percent or more of the fuel mass consumed in the low firing cycle. The low firing cycle means less than or equal to twenty-five percent of the maximum burn rate achieved with the doors closed or the minimum burn rate achievable, whichever is greater; or

(b) For the purposes of determining qualification under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988:

(i) An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;

(ii) A useable firebox volume of less than twenty cubic feet;

(iii) A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28;

(iv) A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-054 (Order 88-38), § 173-433-030, filed 1/3/89; 88-01-056 (Order 87-44), § 173-433-030, filed 12/16/87.]

WAC 173-433-100 Emission performance standards. (1) Requirements for sale of new woodstoves in Washington after July 1, 1988. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new woodstove in Washington unless it has been tested to determine its emission performance and heating efficiency and certified and labeled in accordance with procedures and criteria specified:

(a) By the DEQ in "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984, and herein incorporated by reference and on file at the department; or

(b) By the EPA in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988, and herein incorporated by reference and on file at the department.

(2) Requirements for sale of new solid fuel burning devices in Washington after July 1, 1990. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new woodstove in Washington unless it has been tested to determine its emission performance

and heating efficiency, certified and labeled in accordance with criteria and procedures specified by the EPA in "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988, and herein incorporated by reference and on file at the department.

(3) Exemptions. The following solid fuel burning devices are exempt from the requirements of this section:

(a) Solid fuel burning devices sold at retail on or before July 1, 1988.

(b) Any solid fuel burning device exempted under "Oregon Administrative Rules, Chapter 340, Division 21 – Woodstove Certification" dated November 1984, bearing the appropriate labeling or written proof of exempt status furnished by the DEQ.

(c) Any solid fuel burning device exempted under "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988, section 60.530, paragraphs (a), (b), (c), (e), (f), (g), (h), or (i), bearing the appropriate labeling or exempt status furnished by the EPA.

(4) General certification procedures. A solid fuel burning device that is exempt and therefore not eligible for certification under DEQ or EPA regulations may be tested to demonstrate its emission performance in accordance with criteria and procedures no less stringent than those imposed under "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988, subject to the following conditions:

(a) All criteria and procedures shall be submitted by the applicant for review and approval by the department prior to certification testing;

(b) Certification of the solid fuel burning device shall be granted by the department upon approval of test results that demonstrate that the solid fuel burning device meets emission performance standards equivalent to those under "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988.

(c) The certification of a woodstove shall be valid for only the specific model, design, plans and specifications that were originally submitted, tested and approved for certification.

(5) State-wide emission performance standards. An air authority shall not adopt or enforce emission performance standards for solid fuel burning devices that are more stringent than the state-wide standard.

(6) Emission performance standards for certification.

(a) A new woodstove advertised for sale, offered for sale, or sold in Washington after July 1, 1988, bearing a DEQ certification label shall not exceed the standards for particulate matter under Section 340-21-115, "Oregon Administrative Rules, Chapter 340, Division 21 – Woodstove Certification" dated November 1984.

(b) A new woodstove advertised for sale, offered for sale, or sold in Washington after July 1, 1988, bearing an EPA certification label shall not exceed the standards for particulate matter under "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988.

(7) Labeling requirements.

(a) Woodstoves required to be labeled pursuant to subsection (1)(a) of this section shall have labeling required by the DEQ in "Oregon Administrative Rules, Chapter 340, Division 21 – Woodstove Certification" dated November 1984.

(b) Woodstoves or other solid fuel burning devices required to be labeled pursuant to subsection (1)(b) or (2) of this section shall have labeling required by the EPA under "40 CFR 60 Subpart AAA – Standards of Performance for Residential Wood Heaters" dated February 26, 1988.

(8) Label alteration. A manufacturer, dealer, or retailer shall not alter either the permanent or removable label in any way from the label approved by the EPA or the DEQ.

(9) Woodstove alteration. A manufacturer, dealer, or retailer shall not remove or render inoperable any devices or components of any systems installed by the manufacturer of a woodstove for the purpose of controlling air contaminant emissions, other than for replacement or routine maintenance.

(10) Alternative testing procedure. A Washington state manufacturer who believes his solid fuel burning device, for technical reasons, should be subject to an alternative testing procedure to that established by the U.S. Environmental Protection Agency (USEPA) may apply to the department for an alternative or modified procedure. The department will evaluate such applications. If disapproved, the solid fuel burning device shall remain subject to the USEPA testing protocol. If the application is approved, the manufacturer shall propose an alternative or modified testing procedure. If the procedure is approved by the department, it shall be the responsibility of the manufacturer to submit the device to an accredited testing laboratory and furnish the department with final test reports. If test results are equivalent to those required by USEPA testing, Washington certification may be issued. Interim certification, for a period not to exceed sixty days, may be issued by the department to cover the testing period. Interim certification may be renewed.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-054 (Order 88-38), § 173-433-100, filed 1/3/89; 88-01-056 (Order 87-44), § 173-433-100, filed 12/16/87.]

WAC 173-433-110 Opacity standards. (1) Phase 1 opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of forty percent opacity for six consecutive minutes in any one-hour period.

(2) Phase 2 opacity level. After July 1, 1990, a person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.

(3) State-wide opacity standard. An air authority shall not adopt or enforce an opacity level for solid fuel burning devices that is more stringent than the state-wide standard.

(4) Test method and procedures. EPA reference method 9 – **Visual Determination of the Opacity of Emissions from Stationary Sources** shall be used to determine compliance with subsections (1) and (2) of this section.

(5) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall:

(a) Be enforceable on a complaint basis.

(b) Not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-056 (Order 87-44), § 173-433-110, filed 12/16/87.]

WAC 173-433-120 Prohibited fuel types. A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

- (1) Garbage;
- (2) Treated wood;
- (3) Plastic;
- (4) Rubber products;
- (5) Animals;
- (6) Asphaltic products;
- (7) Waste petroleum products;
- (8) Paints; or
- (9) Any substance, other than properly seasoned fuel wood, or coal with sulfur content less than 1.0% by weight burned in a coal stove, which normally emits dense smoke or obnoxious odors.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-054 (Order 88-38), § 173-433-120, filed 1/3/89; 88-01-056 (Order 87-44), § 173-433-120, filed 12/16/87.]

WAC 173-433-130 General emission standards. (1) Emission of air contaminants detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, including any air contaminant whose emission is not otherwise prohibited by this chapter, if the air contaminant emission directly impacts the property of another so as to cause detriment to the health, safety, or welfare of a person, or cause damage to property or business. Direct impact means that emissions from an identifiable solid fuel burning device are present in amounts which reasonably constitute a threat to the health, safety, or welfare of a person(s).

(2) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-054 (Order 88-38), § 173-433-130, filed 1/3/89.]

(1989 Ed.)

WAC 173-433-150 Curtailment. (1) A person in a residence or commercial establishment with an adequate source of heat other than the burning of solid fuel shall not burn solid fuel in any solid fuel burning device:

(a) Whenever the department has declared an air pollution episode for the geographical area pursuant to chapter 173-435 WAC; or

(b) Whenever the department or an air authority has declared impaired air quality for the geographical area, except when the solid fuel burning device is certified under WAC 173-433-100.

(2) A person responsible for a solid fuel burning device already in operation at the time an episode is declared shall extinguish that device by withholding new solid fuel for the duration of the episode. A person responsible for a solid fuel burning device that is not certified under WAC 173-433-100 already in operation at the time impaired air quality is declared shall extinguish that device by withholding new solid fuel for the duration of the impaired air quality. Smoke visible from a chimney, flue or exhaust duct after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

(3) The department, air authorities, health departments, fire departments, or local police forces having jurisdiction in the area may enforce compliance with the above solid fuel burning device curtailment rules after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-056 (Order 87-44), § 173-433-150, filed 12/16/87.]

WAC 173-433-170 Retail sales fee. (1) A person selling a solid fuel burning device at retail shall impose upon the buyer a fee, pursuant to RCW 70.94.483.

(2) The fee shall be:

(a) Set at a minimum of five dollars, until January 1, 1989, and annually thereafter it may be adjusted upward according to increases in the consumer price index;

(b) Applicable to all new and used solid fuel burning devices, with the exception of built-in masonry fireplaces;

(c) Collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.

(3) If the seller should fail to collect the fee herein imposed or remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-054 (Order 88-38), § 173-433-170, filed 1/3/89.]

WAC 173-433-200 Regulatory actions and penalties. A person in violation of this chapter may be subject

[Title 173 WAC—p 577]

to the provisions of WAC 173-403-170 Regulatory actions and WAC 173-403-180 Criminal penalties.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 88-01-056 (Order 87-44), § 173-433-200, filed 12/16/87.]

Chapter 173-434 WAC

SOLID WASTE INCINERATOR FACILITIES

WAC

173-434-010	Purpose.
173-434-020	Applicability.
173-434-030	Definitions.
173-434-050	New source review.
173-434-100	Requirement for BACT.
173-434-110	Adoption of federal standards of performance.
173-434-120	Emission standards for hazardous air pollutants.
173-434-130	Emission standards.
173-434-160	Design and operation.
173-434-170	Monitoring and reporting.
173-434-190	Changes in operation.
173-434-200	Emission inventory.
173-434-210	Special studies.

WAC 173-434-010 Purpose. This chapter establishes emissions standards, design requirements, and performance standards for solid waste incinerator facilities.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-010, filed 3/16/87.]

WAC 173-434-020 Applicability. The provisions of this chapter shall apply state-wide to all solid waste incinerator facilities constructed after January 1, 1985, which burn or are designed to burn twelve or more tons per day of solid waste or solid waste derived fuel, and facilities constructed prior to January 1, 1985 that commence incineration of twelve or more tons per day of solid waste or solid waste derived fuel after January 1, 1985.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-020, filed 3/16/87.]

WAC 173-434-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings, general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to solid waste incinerators as defined below.

(1) "Facility" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located in one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the incineration of solid waste.

(2) "Residence time" means the minimum amount of time that a parcel of gas is subject to a given temperature.

(3) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This

includes all liquid, solid and semisolid materials, which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to septage from septic tanks, dangerous waste, and problem wastes. Solid waste does not include wood waste or sludge from waste water treatment plants.

(4) "Transmissometer" means a device that measures opacity and conforms to EPA Performance Specification Number 1 in Title 40 Code of Federal Regulations, Part 60, Appendix B as promulgated prior to December 1, 1986.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-030, filed 3/16/87.]

WAC 173-434-050 New source review. (1) Notice of construction. Construction shall not commence on any new source until a notice of construction has been approved by the department or cognizant local authority pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department or cognizant local authority prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department or cognizant local authority may determine that a notice of construction is required.

(2) Prevention of significant deterioration (PSD). Construction shall not commence on any new source until applicability to prevention of significant deterioration rules is determined and, if required, a PSD permit is issued to the source per WAC 173-403-080.

(3) Operation and maintenance plan. As part of a condition of approval of the notice of construction; before initial start up the owner or operator of the incinerator shall develop a plan for the operation and maintenance of all equipment and procedures that can cause or control air pollution. Every twenty-four months thereafter, the owner or operator must obtain approval of a new or updated plan. The owner or operator must obtain the department's or cognizant local authority's approval of the plan prior to commencing operation and shall not incinerate solid waste without an approved plan. The plan may include operating parameters, maintenance procedures and operation personnel training requirements and procedures.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-434-050, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-050, filed 3/16/87.]

WAC 173-434-100 Requirement for BACT. (1) No incinerator facility shall cause or permit air contaminant emissions in excess of the limits described in this section, as modified by chapter 173-403 WAC if applicable. Further, all solid waste incinerator facilities that are required to file a notice of construction are required to use best available control technology (BACT) as defined at the time of construction which may be determined for some facilities to be more stringent than the emissions limitations of this chapter and may include fuel cleaning or separation.

(2) Whenever more than one regulation applies to the control of air contaminants from a solid waste incineration facility the more stringent regulation, control, or emission limit shall govern.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-100, filed 3/16/87.]

WAC 173-434-110 Adoption of federal standards of performance. Title 40, Code of Federal Regulations Part 60, Subparts A and E and Appendixes A, B, C, and D with the exception of Sections 60.5 (determination of construction or modification) and 60.6 (review of plans) as promulgated prior to December 1, 1986, is by this reference adopted and incorporated herein. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the director of the department of ecology.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-110, filed 3/16/87.]

WAC 173-434-120 Emission standards for hazardous air pollutants. (1) The National Emission Standards for Hazardous Air Pollutants (NESHAPS) Title 40, Code of Federal Regulation, Part 61, Subparts A, C, M and V and Appendixes A, B and C as promulgated prior to December 1, 1986, are by reference adopted and incorporated herein.

(2) The department or cognizant local authority, at any time after the effective date of this section, may conduct or require source tests and require access to: Records, books, files, and other information specific to the control, recovery, or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities. Source testing, monitoring, and analytical methods for sources of the above named contaminants shall conform with the requirements of NESHAPS.

(3) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-120, filed 3/16/87.]

WAC 173-434-130 Emission standards. (1) Particulate.

(a) For incinerator facilities that have the capability of burning two hundred fifty or more tons of solid waste per day, the particulate emissions from each incinerator stack shall not exceed 0.046 grams of particulate per dry cubic meter at standards conditions (0.020 grains/dscf) corrected to seven percent oxygen for an hourly average.

(b) For incinerator facilities that have a maximum capability of burning less than two hundred fifty tons of solid waste per day, the particulate emissions from each incinerator stack shall not exceed 0.069 grams of particulate per dry cubic meter at standards conditions (0.030

grains/dscf) corrected to seven percent oxygen for an hourly average.

(2) Hydrogen chloride. The hydrogen chloride emissions from each incinerator stack shall not exceed fifty ppm corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that uncontrolled emissions of hydrogen chloride are reduced by at least eighty percent and a procedure acceptable to the department or cognizant local agency for monitoring is developed.

(3) Sulfur dioxide. The sulfur dioxide emissions from each incinerator stack shall not exceed fifty ppm corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that the uncontrolled emissions of sulfur dioxide are reduced by at least eighty percent and a procedure acceptable to the department or cognizant local agency for monitoring is developed. When more than fifty percent of the heat input is fossil fuel the department or cognizant local authority may establish a higher sulfur dioxide limit provided that limit meets the requirements of best available control technology.

(4) Opacity.

(a) The opacity as measured visually from any incinerator stack shall not exceed an average of five percent opacity for more than six consecutive minutes in any sixty minute period.

(b) The opacity as measured by a transmissometer shall not exceed an average of ten percent opacity for more than six consecutive minutes in any sixty minute period.

(c) The opacity as measured visually shall not exceed an average of zero percent from any emission unit except incinerator stacks for more than six consecutive minutes in any sixty minute period.

(5) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property shall use recognized good practices and procedures to reduce those odors to a reasonable minimum.

(6) Fugitive emissions. Each incinerator operator or owner shall take reasonable precautions to prevent fugitive emissions which includes the paving of all normally traveled roadways within the plant boundary and enclosing or hooding material transfer points.

(7) Masking. No incinerator operator shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emissions of an air contaminant which would otherwise violate any provision of this chapter.

(8) Fallout. No incinerator owner or operator shall cause or permit the emission of particulate matter from any emissions unit which becomes deposited beyond the property boundary under direct control of the owner or operator of the incinerator facility in such quantities or of such character or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or will interfere unreasonably with the use and

enjoyment of the property upon which the material is deposited.

(9) Other contaminants. No incinerator owner or operator shall cause or permit air contaminants or water droplets including an air contaminant whose emissions are not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life or property, or which unreasonably interferes with use or enjoyment of property, or may cause a public safety hazard.

(10) Source testing. In order to demonstrate compliance with this chapter, the department or cognizant local authority may require that a test be made of any emissions unit using procedures contained in *Source Test Manual - Procedures for Compliance Testing*, state of Washington, department of ecology, on file at the department. The operator of a source shall be required to provide the necessary platform and sampling ports for the department or cognizant local authority personnel to perform a test of an emissions unit. The department or cognizant local authority shall be allowed to obtain a sample from any emissions unit. The operator shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-130, filed 3/16/87.]

WAC 173-434-160 Design and operation. (1) Combustion temperature. Whenever solid waste is being burned the temperature of the final combustion zone shall not be below 982°C (1800°F) for a fifteen minute average. At no time when solid waste is being burned shall the temperature of the final combustion zone fall below 871°C (1600°F).

(2) Residence time. The minimum combustion chamber temperature must be maintained for at least one second (1.0 second) in a zone after the last over fire air has entered the combustion chamber. Procedures for determining the residence time shall be a part of the new source review.

(3) Excess air. The combustion gases leaving the final combustion zone must contain at least three percent free oxygen measured on a wet basis.

(4) Combustion air. To minimize odor and fugitive emissions and to maintain a negative pressure in the tipping area, the combustion air shall be withdrawn from the tipping area, or shall utilize an equivalent means of odor and fugitive emission control acceptable to the department or cognizant local authority.

(5) Combustion air distribution and control. The air distribution shall be fully controllable at each location where pressurized air is introduced and the air flow shall be measured and monitored continuously.

(6) Particulate control device temperature. The average inlet temperature of the primary (most efficient) particulate control device shall not exceed 177°C (350°F) whenever solid waste is being burned.

(7) Operation. At all times, including periods of abnormal operation and upset conditions, the owner or operator shall, to the extent practicable, maintain and

operate any incinerator facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the department or cognizant local authority which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-160, filed 3/16/87.]

WAC 173-434-170 Monitoring and reporting. The owners or operators of each incinerator shall conduct routine monitoring of emissions in accordance with a program that has been approved by the department or cognizant local authority. The program must contain quality control and quality assurance procedures.

(1) Monitoring. As part of the program the owners or operators shall install, operate, and maintain continuous monitors for the following:

- (a) Opacity;
- (b) Combustion temperature;
- (c) Particulate control device temperature;
- (d) Hydrogen chloride and/or sulfur dioxide;
- (e) Oxygen;
- (f) Carbon monoxide;
- (g) Combustion air distribution;
- (h) Pollution control equipment bypass conditions.

The monitors for opacity, sulfur dioxide, carbon monoxide, and oxygen shall comply with EPA performance specifications in Title 40, Code of Federal Regulations, Part 60, Appendix B as promulgated prior to December 1, 1986.

(2) Reporting. Results of the monitoring shall be reported within thirty days of the end of each calendar month and shall include but may not be limited to data such as:

(a) The average daily maximum concentration of each monitored pollutant and the daily amount of solid waste burned.

(b) The date, time, and magnitude of any periods during which the standards were exceeded, and what corrective action was or will be taken.

(c) Any period of monitor down time.

(3) Testing. The owners or operators shall conduct emission tests for particulate, sulfur dioxide and hydrogen chloride on a regular basis. These tests may be used to help determine acceptable operating parameters. The testing shall be at least annual for facilities capable of burning two hundred fifty tons or more of solid waste per day and biennial for other facilities.

(4) Other data. Each owner or operator shall furnish upon request of the department or cognizant local authority, such other pertinent data as the department or cognizant local authority may require to evaluate the incinerator's emissions or emissions control program.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-170, filed 3/16/87.]

WAC 173-434-190 Changes in operation. If a startup, shutdown, breakdown, or upset condition occurs which could result in an emissions violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department or cognizant local authority not less than twenty-four hours in advance of its occurrence. For facilities that normally operate for less than twenty-four hours per day, this provision may be waived provided that daily startup and shutdown procedures are developed that are acceptable to the department or cognizant local authority.

(2) For unplanned conditions, such as a breakdown or upset, the condition shall be reported to the department or cognizant local authority as soon as possible, but no later than the end of the next business day.

If, upon reviewing the available information, the department or cognizant local authority determines that continued operation of any emission unit is likely to cause a significant risk to the public it may order an immediate shutdown of the emissions unit.

Upon request of the department or cognizant local authority the owner or operator of the source shall submit a full written report including known causes of the infraction, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirement of WAC 173-434-100, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-434 WAC nor from the resulting liabilities for failure to comply.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-190, filed 3/16/87.]

WAC 173-434-200 Emission inventory. The owner or operator of any solid waste incinerator shall submit an inventory of emissions from the sources each year upon and according to instructions from the department of ecology. The inventory shall include but may not be limited to stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, hydrogen chloride, and other contaminants, and shall be submitted when required. The inventory shall include total emissions of each pollutant for the year in tons per year and an estimate of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel used which will result in emissions of more than twenty-four tons per year of sulfur dioxide.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-434-200, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-200, filed 3/16/87.]

(1989 Ed.)

WAC 173-434-210 Special studies. The department or cognizant local authority may require such additional special studies relevant to process emissions and establish completion dates as it determines necessary. These special studies may include the requirement to conduct studies of dioxin emissions and control measures.

[Statutory Authority: Chapter 70.94 RCW. 87-07-041 (Order 86-38), § 173-434-210, filed 3/16/87.]

Chapter 173-435 WAC EMERGENCY EPISODE PLAN (Formerly chapter 18-08 WAC)

WAC

173-435-010	Purpose.
173-435-015	Significant harm levels.
173-435-020	Definitions.
173-435-030	Episode stage criteria.
173-435-040	Source emission reduction plans.
173-435-050	Action procedures.
173-435-060	Enforcement.
173-435-070	Sampling sites, equipment, and methods.

WAC 173-435-010 Purpose. These rules implement chapter 70.94 RCW, the Washington State Clean Air Act.

Air pollution episodes occur under meteorological conditions that reduce the effective volume of air into which air contaminants are introduced. When these conditions occur, there is a possible danger that normal operations at air contaminant sources will be detrimental to public health and safety. The avoidance of high contaminant concentrations reaching significant harm levels during an episode requires a plan which will provide for rapid short-term emission reduction. This chapter sets up such an episode avoidance plan.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-010, filed 1/3/89; Order DE 77-21, § 173-435-010, filed 10/31/77.]

WAC 173-435-015 Significant harm levels. Significant harm levels are reached when any one of the following pollutant concentrations are measured:

(1) Sulfur dioxide - 2,620 $\mu\text{g}/\text{m}^3$ (1.0 ppm), 24-hour average.

(2) PM-10 - 600 micrograms/ cubic meter, 24-hour average.

(3) Carbon monoxide - 57.5 mg/m^3 (50 ppm), 8-hour average, 86.3 mg/m^3 (75 ppm) 4-hour average, 144 mg/m^3 (125 ppm) 1-hour average.

(4) Ozone - 1,200 $\mu\text{g}/\text{m}^3$ (0.6 ppm) - 2-hour average.

(5) Nitrogen dioxide - 3,750 $\mu\text{g}/\text{m}^3$ (2.0 ppm) 1-hour average, 938 $\mu\text{g}/\text{m}^3$ (0.5 ppm) 24-hour average.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-015, filed 1/3/89.]

WAC 173-435-020 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings, general terms common with other chapters as

[Title 173 WAC—p 581]

defined in chapter 173-403 WAC, and terms specific to the emergency episode plan as defined below.

(1) "Air quality control region" means an area designated as an air quality control region by the federal environmental protection agency.

(2) "Episode stage" means a prescribed level of air contaminants or meteorological conditions where certain control actions are required to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons.

(3) "Emergency action center" means the headquarters for all department actions during an episode stage.

(4) "Hour" means a 60 minute period, beginning and ending on a clock hour.

(5) "8 hours" means any consecutive 8 hours, starting at any clock hour.

(6) "Major source" means any source which is estimated to emit at an annual rate of twenty-five tons per year or more of SO₂, particulates, or carbon monoxide.

(7) "Source emission reduction plan (SERP)" means a plan developed for an individual air pollution source and approved by the director, which sets forth the actions to be taken at that source upon the declaration of various stages of an episode.

(8) "24 hours" means any consecutive 24 hours, starting at any clock hour.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-020, filed 1/3/89; Order DE 77-21, § 173-435-020, filed 10/31/77.]

WAC 173-435-030 Episode stage criteria. The declaration of episode stages shall be in accordance with the following criteria:

(1) **Stage: "First or forecast"** – the forecast stage indicates the presence of meteorological conditions conducive to the accumulation of air contaminants. A forecast stage may be declared when an air stagnation advisory is issued by the national weather service or there is equivalent indication of stagnant atmospheric conditions and conditions are forecast to persist for 24 hours. Declaration of this stage will activate increased air quality surveillance.

(2) **Stage: "Second or alert"** – the alert stage is that concentration of pollutants at which control actions are to begin. An alert will be declared when any one of the following levels is reached:

(a) SO₂ – 800 µg/m³ (0.3 ppm), 24-hour average.

(b) PM-10 – 350 µg/m³, 24-hour average.

(c) CO – 17 mg/m³ (15 ppm), 8-hour average.

(d) Oxidant (O₃) – 400 µg/m³ (0.2 ppm) – 1-hour average.

(e) NO₂ – 1130 µg/m³ (0.6 ppm) 1-hour average, 282 µg/m³ (0.15 ppm) 24-hour average; and meteorological conditions are such that the pollutant concentrations can be expected to remain at or above the alert levels for 12 or more hours or can be expected to recur within 24 hours unless control actions are taken.

(3) **Stage: "Third or warning"** – the warning stage indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will

be declared when any one of the following levels is reached:

(a) SO₂ – 1,600 µg/m³ (0.6 ppm), 24-hour average.

(b) PM-10 – 420 µg/m³, 24-hour average.

(c) CO – 34 mg/m³ (30 ppm), 8-hour average.

(d) Oxidant (O₃) – 800 µg/m³ (0.4 ppm), 1-hour average.

(e) NO₂ – 2,260 µg/m³ (1.2 ppm), 1-hour average; 565 µg/m³ (0.3 ppm), 24-hour average; and meteorological conditions are such that pollutant concentrations can be expected to remain at or above the warning levels for 12 or more hours or can be expected to recur within 24 hours unless control actions are taken.

(4) **Stage: "Fourth or emergency"** – the emergency stage indicates that air quality is continuing to degrade toward a level of significant harm to the health of persons and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

(a) SO₂ – 2,100 µg/m³ (0.8 ppm), 24-hour average.

(b) PM-10 – 500 µg/m³, 24-hour average.

(c) CO – 46 mg/m³ (40 ppm), 8-hour average.

(d) Oxidant (O₃) – 1,200 µg/m³ (0.6 ppm), 1-hour average.

(e) NO₂ – 3,000 µg/m³ (1.6 ppm), 1-hour average; 750 µg/m³ (0.4 ppm), 24-hour average; and meteorological conditions are such that this condition can be expected to remain at or above emergency levels for 12 or more hours, or can be expected to recur within 24 hours.

(5) **Stage: "Termination"** – once declared, any stage reached by applying these criteria will remain in effect until the criteria for that level are no longer met. At that time, the next lower stage will be declared. When conditions improve to where the criteria are no longer met for any episode stage, the episode will be terminated.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-030, filed 1/3/89; Order DE 77-21, § 173-435-030, filed 10/31/77.]

WAC 173-435-040 Source emission reduction plans.

(1) Any person responsible for the operation of a major source, when requested in writing by the director, shall prepare, in consultation with the department, a source emission reduction plan (SERP). This SERP shall be consistent with good industrial practice and safe operating procedures for reducing the emissions of air contaminants into the ambient air during periods of air pollution alert, warning, and emergency.

(2) SERPs shall be in writing and shall show the source of air contamination, describe the manner in which the reduction of air contaminant emissions will be achieved during periods of air pollution alert, warning, and emergency, and give the amount of reduction for each stage.

(3) During periods of air pollution alert, warning, or emergency, SERPs shall be made available, on the premises of sources required under this section to have them, to any person authorized to enforce the provisions of this episode avoidance plan.

(4) SERPs shall be submitted to the director within 30 days after receipt of a request thereof.

(5) SERPs shall be reviewed and approved by the director. If, in the opinion of the director, and SERP does not, in whole or in part, provide for satisfactory emission reduction during an episode, the director may disapprove such SERP, give the reason for disapproval, and require the resubmittal of same within a specified time period.

If within the time period specified, the person responsible fails to submit a SERP satisfactory to the director, the director may revise the SERP to cause it to meet episode avoidance objectives. This revised plan will then be the SERP for the source to which it applies.

(6) SERPs may be amended after submission to the director of a revised SERP. This revised SERP will be processed in the same manner as the originally submitted SERP.

(7) An emission reduction plan for the purpose of reducing motor vehicle emissions during episode stages, will be developed or approved by the department. These plans may include actions to be taken by other governmental units, citizens, and businesses.

[Statutory Authority: Chapters 70.94 and 43.21A RCW, 89-02-055 (Order 88-39), § 173-435-040, filed 1/3/89; Order DE 77-21, § 173-435-040, filed 10/31/77.]

WAC 173-435-050 Action procedures. (1) Whenever applicable criteria are met, the director may declare and terminate the forecast, alert, and warning stages of an episode. This declaration shall constitute an order for action in accordance with applicable SERPs.

(2) No open fires shall be ignited during any stage of an episode. Any person responsible for an open fire already ignited shall extinguish that fire when informed that an episode has been declared. Open fires conducted under the auspices of the department of natural resources for the purpose of burning forest slash pursuant to RCW 70.94.660 through 70.94.700 are to be extinguished by withholding new fuel and allowing the fire to burn down.

(3) Whenever applicable criteria are met, the governor may declare and terminate the emergency stage of an episode. This declaration shall constitute an order for action in accordance with applicable SERPs.

(4) Adverse air quality need not be region-wide for any episode stage to be declared. Action procedures may be taken for any area affected or likely to be affected by episode conditions. The declaration of any episode stage shall specify the area to which it applies.

(5) The broadest publicity practicable shall be given to the declaration of any episode stage. Such declaration shall, as soon as possible, be directly communicated to all persons responsible for the carrying out of SERPs within the affected area.

(6) Regardless of whether any episode stages have previously been declared, whenever the governor finds that emissions are causing imminent danger to public health or safety, the governor may declare an air pollution emergency and order the persons responsible for the operation of sources causing the danger, to reduce or discontinue emissions consistent with good operating practice, safe operating procedures, and SERPs, if any.

(7) Whenever an episode stage is declared on the basis of contaminant levels of carbon monoxide, oxidant, or nitrogen dioxide, the director shall take such action as may be required to reduce emissions from motor vehicles. These actions may include, but are not limited to, the rerouting or detouring of traffic. Actions to be taken by cities and businesses will be established and implemented according to plans developed by them and approved by the department. These plans must meet criteria for emission reduction established by the department.

[Statutory Authority: Chapters 70.94 and 43.21A RCW, 89-02-055 (Order 88-39), § 173-435-050, filed 1/3/89; Order DE 77-21, § 173-435-050, filed 10/31/77.]

WAC 173-435-060 Enforcement. (1) Whenever any episode stage has been declared, the department shall establish an emergency action center, which shall be the headquarters for all department actions during the episode.

(2) The department shall develop an operations manual, which shall set forth a plan for the receipt, processing, and dissemination of information and data during an episode.

(3) Enforcement with respect to any episode shall be directed from the emergency action center by the director in consultation with the governor's office.

(4) Authorized personnel of the department, the department of social and health services, and the state police shall have the authority to enforce orders of the director or the governor, issued under this chapter, as directed from the emergency action center. In addition, authorized personnel of any local air pollution control agency or local police force shall have the authority to enforce such orders against sources within the area over which that agency or police force has jurisdiction, as directed from the emergency action center.

(5) To determine compliance with any SERP, those persons authorized to enforce orders, hereunder, shall have the authority to enter upon any private or public property, excepting nonmultiple unit private dwellings, housing two families or less. No person shall refuse entry or access to enforcement personnel who request entry and present appropriate credentials.

(6) Whenever it appears that action being taken in compliance with SERPs will not avert imminent danger to public health and safety, the governor may order the following additional measures:

(a) Stopping and prohibiting motor vehicle travel and traffic;

(b) Closing down or restricting the use of any business, commercial, industrial or other establishment or activity which contributes to the emission of contaminants to the air.

(7) Any declaration or order issued in accordance with WAC 173-435-050 shall be effective immediately and shall not be stayed, pending completion of review.

(8) Whenever any order has been issued hereunder, the attorney general, upon the request of the governor or authorized representative, or the director shall petition

the superior court of the county in which a source is located for a temporary restraining order for the immediate reduction or discontinuance of emissions from that source.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-060, filed 1/3/89; Order DE 77-21, § 173-435-060, filed 10/31/77.]

WAC 173-435-070 Sampling sites, equipment, and methods. (1) Data from all stations shall be considered when determining episode conditions. The department shall specify PM-10 monitoring stations to be operated continuously during any episode stage for episode management purposes. Stations from which episode declarations are based must be located in such a manner that the area represented by that station and the sources contributing to the episode condition can reasonably be determined and corrective actions taken.

(2) Sampling and analysis will be done by federal reference or federal equivalent methods; except the department may approve other sampling and analysis methods for PM-10 if reasonable site specific equivalency with the federal reference method has been demonstrated. This equivalency must be reestablished biennially.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-435-070, filed 1/3/89; Order DE 77-21, § 173-435-070, filed 10/31/77.]

Chapter 173-440 WAC
SENSITIVE AREAS
(Formerly chapter 18-06 WAC)

WAC

173-440-010	Purpose.
173-440-020	Applicability.
173-440-030	Definitions.
173-440-040	Sensitive areas designated.
173-440-100	Standards.
173-440-900	Appendix A—Map.

WAC 173-440-010 Purpose. This chapter promulgated under RCW 70.94.305 and 70.94.331 designates certain geographical areas of the state as sensitive areas after considering population, development and recreational and scenic values; and provides for the imposition of more stringent standards and compliance requirements for certain stationary source categories within these areas than apply to such categories outside sensitive areas.

[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-010, filed 9/16/87.]

WAC 173-440-020 Applicability. The provisions of this chapter shall apply to all sources of a listed source category located in a sensitive area.

[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-020, filed 9/16/87.]

WAC 173-440-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings: General terms common with other chapters of

Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to sensitive areas as follows: "Sensitive area" means a geographical area designated by this chapter.

[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-030, filed 9/16/87.]

WAC 173-440-040 Sensitive areas designated. Designated as sensitive areas in the state are:

(1) All cities with a population of 1,000 or more that are not located in a county having an air authority, together with those lands within a zone extending one mile (horizontal measure) from the present city limits. These cities are presently:

- (a) Pullman
- (b) Wenatchee
- (c) Ellensburg
- (d) Clarkston
- (e) Othello
- (f) Omak
- (g) Colville
- (h) Colfax
- (i) Dayton
- (j) Goldendale
- (k) Chelan
- (l) Okanogan
- (m) Cashmere
- (n) Ritzville
- (o) Pomeroy
- (p) Cle Elum
- (q) White Salmon
- (r) Oroville
- (s) Newport
- (t) Coulee Dam
- (u) Davenport
- (v) Chewelah
- (w) Leavenworth
- (x) Brewster
- (y) Wilbur
- (z) Odessa

(2) Those sections of state highways designated on the map incorporated herein as Appendix A (WAC 173-440-900), together with those lands within a zone extending one mile (horizontal measure) to either side of the highway right of way and all incorporated cities or towns bordering the designated sections of highway.

(3) Any area on either side of the Columbia, Snake, or Spokane Rivers within a zone extending one mile (horizontal measure) from the line of mean high water.

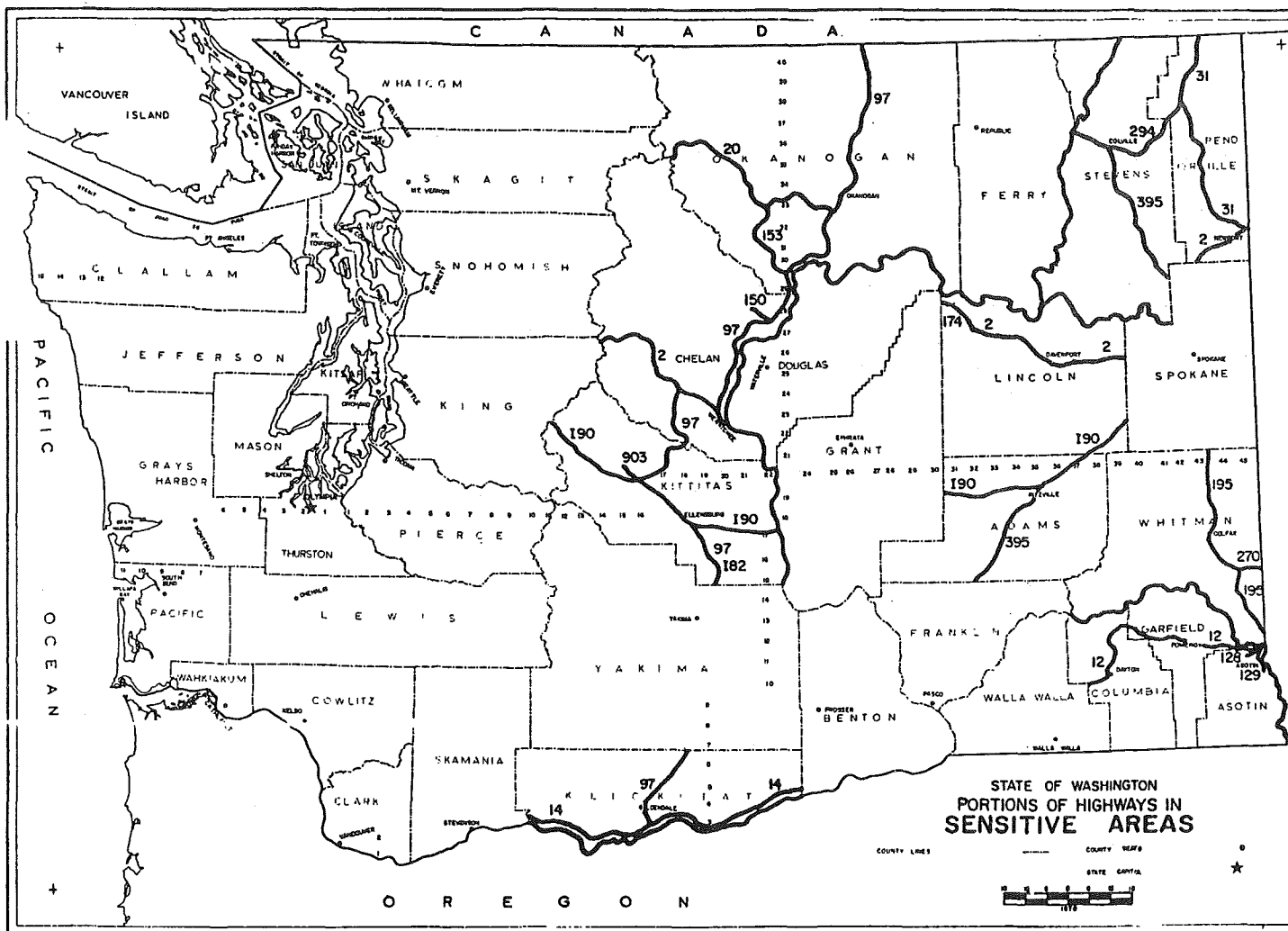
[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-040, filed 9/16/87.]

WAC 173-440-100 Standards. In addition to all other applicable regulations the following more restrictive standards shall apply in sensitive areas for stationary sources in the categories listed.

Wigwam burners. All wigwam burners shall comply with the requirements of WAC 173-400-070 (1)(d).

[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-100, filed 9/16/87.]

WAC 173-440-900 Appendix A--Map.



APPENDIX A

[Statutory Authority: Chapter 70.94 RCW. 87-19-076 (Order 87-15), § 173-440-900, filed 9/16/87.]

Chapter 173-450 WAC
ESTABLISHING REQUIREMENTS FOR THE
RECEIPT OF FINANCIAL AID
 (Formerly chapter 18-20 WAC)

- WAC
- 173-450-010 Purpose and applicability.
 - 173-450-020 Definitions.
 - 173-450-030 Limitations.
 - 173-450-040 Applications.
 - 173-450-050 Workable program.
 - 173-450-060 Grant conditions.
 - 173-450-070 Payments.
 - 173-450-080 Changes, amendments and supplemental state financial aid.
 - 173-450-090 Termination.
 - 173-450-100 Federal grants.

WAC 173-450-010 Purpose and applicability.
 These rules and regulations are promulgated under

(1989 Ed.)

RCW 70.94.143, 70.94.305, and 70.94.385 of the Washington Clean Air Act to establish standard of eligibility for the granting of state and federal financial aid to air authorities.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-010, filed 9/16/87.]

WAC 173-450-020 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to requirements for financial aid as follows:

(1) "Applicant" means an air authority applying for state financial aid under the provisions of chapter 70.94 RCW.

[Title 173 WAC—p 585]

(2) "Grantee" means an applicant for whom state financial aid has been approved by the department.

(3) "Locally funded portion" or "local funds" means the funds provided to the applicant air authority from sources available to it under chapter 70.94 RCW exclusive of state financial aid or federal funds designated specifically for air pollution.

(4) "Payment period" means the period of time for which money for state and federal financial aid is paid to the grantee upon receipt and approval by the department of a properly executed voucher.

(5) "Workable program" means a comprehensive statement of objectives for the prevention and control of air pollution and the existing and proposed measures to achieve these objectives as described in WAC 173-450-050.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-020, filed 9/16/87.]

WAC 173-450-030 Limitations. State financial aid shall be granted to air authorities qualifying under these regulations subject to the following limitations:

(1) State financial aid shall not exceed an amount equal to fifty percent of the locally funded portion of the annual recurring expenditures of such air authority in each of the first three years during which state financial aid is utilized by the air authority and shall not exceed an amount equal to one hundred percent of the locally funded portion in each following year.

(2) The department may limit the amount of financial aid available to a grantee when it becomes necessary due to the lack of sufficient funds available for distribution to meet the needs of all qualified grantees throughout the state.

(3) The department may limit the amount of financial aid to less than the amount for which the applicant applies when the department determines that proposed items of expenditure are not consistent with air pollution control program needs in the applicant's area of jurisdiction, or are not in the best interests of a coordinated state-wide air pollution control program, or where such items of expenditure duplicate the responsibilities and activities of the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-030, filed 9/16/87.]

WAC 173-450-040 Applications. Applications for state financial aid shall be prepared and submitted on forms specified by the department under the following conditions:

(1) Applications shall be filed with the department and the department shall take action as to the disposition of an application within sixty-five days of its first presentation. Applications shall be approved, denied, or deferred: *Provided*, That where action is deferred the applicant shall be advised of the reasons for such deferral and action shall be taken within a reasonable time.

(2) Applications must contain a statement of need for air pollution prevention and control in the applicant's jurisdiction.

(3) The applicant must describe a workable program and its objectives together with a proposed timetable of accomplishment.

(4) The application shall contain the budget of the air authority showing all anticipated revenue and sources of revenue, including requested state financial aid, and shall show proposed expenditures covering salaries, equipment and accessories, expendable supplies, travel, and such other information as may be deemed necessary by the department.

(5) Any air pollution control activity conducted by the applicant air authority during the twelve-month period immediately prior to the proposed grant period shall be described in the application, including funds budgeted and expended.

(6) It shall be the policy of the department in reviewing applications for state financial aid and in administering such financial aid to take into consideration the following factors:

(a) The implementation of coordinated state-wide air pollution prevention and control.

(b) The responsibilities of the department with respect to its jurisdiction over any areas or type of air contaminant sources and for monitoring the movement of air contaminants throughout the state.

(c) The needs and financial capability of the air authorities in the various areas of the state and the relative effectiveness of the air authorities.

(d) The capability and reasonable potential of the air authorities to perform.

(7) The department will, from time to time, determine or estimate the amount of state financial aid that will be available and advise the applicants, or potential applicants, as to the availability of such aid or supplemental aid.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-040, filed 9/16/87.]

WAC 173-450-050 Workable program. The applicant shall provide sufficient information to show that its workable program is designed to provide for effective prevention and control of air pollution through an orderly progression of development, establishment, and improvement of air pollution control programs.

(1) The initial activity of an applicant shall be the development of a plan designed to provide an evaluation of existing and potential air pollution within the jurisdiction of the applicant, including a general inventory of the types of air contaminant sources and their relative contribution to the air pollution problem; to provide for the initiation of air quality surveillance appropriate to the air contaminant sources over which the applicant will have jurisdiction; and to provide for the development of regulations appropriate to the existing air contaminant sources or those which may be reasonably anticipated.

(2) The establishment and improvement of air pollution control programs which constitute the operating control activity of an applicant, shall be oriented to attaining compliance with requirements and regulations of

the applicant with respect to air contaminant sources under its jurisdiction.

(3) Sampling and monitoring programs shall be oriented to surveillance for control purposes with respect to those air contaminant sources under the applicant's jurisdiction, except as may be requested by the department to supplement the state-wide monitoring program.

(4) Budget for personnel, equipment and other operating expenses must be adequate to carry out the program during the grant period for which state financial aid is requested. Total funding from all sources shall provide, as a minimum, for the equivalent of one full time person: *Provided*, That the department may approve the sharing of personnel with another agency, the utilization of part-time staff, or persons under contract when these methods can be demonstrated as an effective means of carrying out the program and the purposes of the Washington Clean Air Act.

(5) The locally funded portion of the annual operating cost, budgeted and expended in any grant period for which application is made for state financial aid, shall not be less than the locally funded annual expenditure for air pollution control during the twelve-months' period immediately preceding the proposed grant period, unless it can be demonstrated by the applicant that there were necessary nonrecurring expenditures in the previous period or that the program objectives and the purposes of the Washington Clean Air Act can reasonably be met with a reduced expenditure.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-050, filed 9/16/87.]

WAC 173-450-060 Grant conditions. (1) No grant of state funds shall be made to any grantee for a period in excess of twelve months.

(2) Any state financial aid granted shall be used solely for carrying out the program outlined in the approved application or approved amendment as provided in WAC 173-450-040 and 173-450-080.

(3) The grantee shall provide for and maintain such accounting, budgetary, and other fiscal procedures so as to assure the proper and efficient administration of funds. The fiscal records shall be such as to reflect currently the receipt and disposition of all funds including state financial aid. Such records and documents pertinent to the receipt and disposition of funds shall be kept available for review and audit.

(4) As a minimum the grantee shall submit quarterly financial and progress reports to the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-060, filed 9/16/87.]

WAC 173-450-070 Payments. (1) Grantees shall initiate requests for payment of state financial aid for the appropriate payment period utilizing properly executed vouchers furnished by the department. The voucher shall state the requested amount of state financial aid and the expenditure of local funds during the payment period. Local funds expended for any item may be shown as the appropriate portion of the total expenditure when the expenditure properly includes the use of,

or anticipates, reimbursement with federal or state grant funds.

(2) Upon approval of the voucher by the department, payment for the appropriate payment period shall be authorized.

(3) Payments of state and federal financial aid shall be made by way of reimbursement as contained in the annual agreement payment schedule or otherwise mutually agreed upon, and changed by an amendment to the annual agreement. All expenditures claimed for reimbursement shall be subject to audit.

(4) Final payment of state and federal financial aid shall be based upon approved vouchers applied to the entire grant period.

(5) Vouchers for the final payment period during a grant period shall be submitted by the grantee by the 15th day of July of that year.

(6) The department may withhold approval of the vouchers submitted by the grantee if it finds that said grantee has failed to comply with any of the grant conditions or any other requirement or condition imposed by these regulations or chapter 70.94 RCW, for a period not to exceed thirty days. If at the end of such period the matter has not been resolved and the department has not approved said vouchers, the grantee may request an administrative hearing before the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-070, filed 9/16/87.]

WAC 173-450-080 Changes, amendments and supplemental state financial aid. (1) Changes in the workable program of a grantee during the grant period which would not substantially affect the workable program, nor increase the total cost to the state, and which are for the purpose of improving the operation and performance of the workable plan, may be made: *Provided*, That written approval in advance is obtained from the department.

(2) Changes in the workable program of a grantee during the grant period which would significantly alter the workable program shall not be made until the grantee has submitted to, and the department has approved, an amendment to the original application.

(3) Application for supplemental state and federal financial aid may be made by the grantee when notice is given by the department that such supplemental funds have become available. The application shall be made as an amendment to the previously approved workable program of the grantee and shall include proposed additions in or improvements to the workable program and proposed changes in the budget including the additional local funds to be provided. The department may approve additional financial aid to the extent such funds become available having considered the needs of all grantees throughout the state.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-080, filed 9/16/87.]

WAC 173-450-090 Termination. The department may terminate state and federal financial aid, in whole or in part, to any grantee when it finds, after reasonable notice and opportunity for appeal to the director, that

the grantee has failed to comply with any of the conditions of the approved application or amendments thereto or any of the requirements or conditions imposed by or pursuant to these regulations or the Washington Clean Air Act.

Upon the effective date of termination, the grantee shall promptly render an accounting and final statement as would similarly be required for request for payment of state financial aid under WAC 173-450-070. The department may authorize payment of the state's share of the amount required to settle at minimum cost any contractual obligations properly incurred by the grantee prior to the date of termination, if the department finds that the grantee acted in good faith in incurring the obligations.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-090, filed 9/16/87.]

WAC 173-450-100 Federal grants. The standards and requirements of these regulations establishing the eligibility of air authorities for state financial aid shall be equally applicable to the applications of such air authorities for federal grants.

[Statutory Authority: Chapter 70.94 RCW. 87-19-077 (Order 87-16), § 173-450-100, filed 9/16/87.]

Chapter 173-470 WAC
AMBIENT AIR QUALITY STANDARDS FOR
PARTICULATE MATTER
(Formerly chapter 18-40 WAC)

WAC

173-470-010	Purpose.
173-470-020	Applicability.
173-470-030	Definitions.
173-470-100	Ambient air quality standards.
173-470-110	Particle fallout standards.
173-470-150	Method of measurement.
173-470-160	Reporting of data.

WAC 173-470-010 Purpose. This chapter promulgated under RCW 70.94.305 and 70.94.331 establishes maximum acceptable levels for particulate matter in the ambient air. Particulate matter is characterized in criteria developed by the United States Environmental Protection Agency.

[Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-010, filed 9/16/87.]

WAC 173-470-020 Applicability. The provisions of this chapter apply to all areas of the state of Washington.

[Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-020, filed 9/16/87.]

WAC 173-470-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-470-030, filed 1/3/89. Statutory Authority:

[Title 173 WAC—p 588]

Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-030, filed 9/16/87.]

WAC 173-470-100 Ambient air quality standards.

(1) The level of the 24-hour ambient air quality standard for total suspended particulate is 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration. The standard is attained when the number of days per calendar year is less than or equal to one for measured 24-hour concentrations above 150 $\mu\text{g}/\text{m}^3$.

(2) The level of the annual standard for total suspended particulate is sixty micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), annual geometric mean. The standard is attained when the annual geometric mean concentration is less than or equal to 60 $\mu\text{g}/\text{m}^3$.

(3) The level of the 24-hour ambient air quality standard for PM-10 is 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration. The standard is attained when:

(a) The expected number of days per calendar year with a 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50 Appendix K as in effect on July 1, 1988, is equal to or less than one; and

(b) The number of days per calendar year the measured 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$ is equal to or less than one.

(4) The level of the annual standard for PM-10 is 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), annual arithmetic mean. The standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix K as in effect on July 1, 1988, is less than or equal to 50 $\mu\text{g}/\text{m}^3$.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 89-02-055 (Order 88-39), § 173-470-100, filed 1/3/89. Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-100, filed 9/16/87.]

WAC 173-470-110 Particle fallout standards. Particle fallout shall not exceed the standards enumerated below at the conditions stated.

(1) The particle fallout rate measured at a primary air mass station, ground level monitoring station or special station shall not exceed:

(a) Ten grams per square meter (10 g/m^2) per month in an industrial area; or

(b) Five grams per square meter (5 g/m^2) per month in an industrial area if visual observations show a presence of wood waste and the volatile fraction of the sample exceeds seventy percent.

(c) Five grams per square meter (5 g/m^2) per month in residential and commercial areas.

(d) Three and one-half grams per square meter (3.5 g/m^2) per month in residential and commercial areas if visual observations show the presence of wood waste and the volatile fraction of the sample exceeds seventy percent.

(2) In recognition of natural dust in areas of the state, the following exceptions apply to areas east of the Cascade range crest. When concentrations measured at approved background locations exceed three and one-half

grams per square meter (3.5 g/m^2) per month, the particulate fallout rate measured at a primary air mass station, ground level monitoring station or special station, shall not exceed:

- (a) Six and one-half grams per square meter (6.5 g/m^2) per month plus background in an industrial area; or
- (b) One and one-half grams per square meter (1.5 g/m^2) per month plus background in residential and commercial areas.

The provisions of WAC 173-470-110 (1)(b) and (d) pertaining to wood waste shall continue to apply regardless of background.

[Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-110, filed 9/16/87.]

WAC 173-470-150 Method of measurement. Sampling and analysis for particulate matter shall be conducted according to methods approved by and on file with the department. Methods equivalent in sensitivity, accuracy, reproducibility, and selectivity to the approved standard method may be used after approval by the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-150, filed 9/16/87.]

WAC 173-470-160 Reporting of data. (1) Air authorities sampling for particulate matter shall notify the department of all infractions of these standards. Notification shall be made quarterly. A quarterly summary of all samples greater than the standards shall be submitted within sixty days of the end of each calendar quarter. Quarterly data shall include:

- (a) Location of sampler.
- (b) Time period (day and year).
- (c) Individual concentrations recorded at each air monitoring station.
- (d) The applicable geometric or arithmetic mean for each monitoring station (first quarter report only for previous calendar year).

(2) If particulate matter values greater than the standards are measured by the department, the air authority shall be notified quarterly. This notification shall include:

- (a) Location.
- (b) Time or time period.
- (c) Concentrations recorded.
- (d) The applicable geometric or arithmetic mean (first quarter report only for previous calendar year).

[Statutory Authority: Chapter 70.94 RCW. 87-19-080 (Order 87-19), § 173-470-160, filed 9/16/87.]

Chapter 173-474 WAC

AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES

(Formerly chapter 18-56)

WAC

- 173-474-010 Purpose.
- 173-474-015 Objective.
- 173-474-020 Applicability.
- 173-474-030 Definitions.

(1989 Ed.)

- 173-474-100 Air quality standards.
- 173-474-150 Measurement method.
- 173-474-160 Data reporting.

WAC 173-474-010 Purpose. This chapter promulgated under RCW 70.94.305 and 70.94.331 establishes maximum acceptable levels for sulfur dioxide as a measure of the sulfur oxide concentration in the ambient air.

[Statutory Authority: Chapter 70.94 RCW. 87-20-020 (Order 87-22), § 173-474-010, filed 9/30/87.]

WAC 173-474-015 Objective. In recognition of the need to continue improvement of the quality of the air resource, the department intends to work toward the achievement of the following objective: The sulfur oxide concentration measured as sulfur dioxide at a primary air mass station, primary ground level monitoring station, or special station shall not be greater than three-tenths per million (0.3 ppm) average for five minutes.

[Statutory Authority: Chapter 70.94 RCW. 87-20-020 (Order 87-22), § 173-474-015, filed 9/30/87.]

WAC 173-474-020 Applicability. The provisions of this chapter apply to all areas of the state of Washington.

[Statutory Authority: Chapter 70.94 RCW. 87-20-020 (Order 87-22), § 173-474-020, filed 9/30/87.]

WAC 173-474-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to standards for sulfur oxide as follows:

"Period" means any interval of the specified time.

[Statutory Authority: Chapter 70.94 RCW. 87-20-020 (Order 87-22), § 173-474-030, filed 9/30/87.]

WAC 173-474-100 Air quality standards. Sulfur oxide in the ambient air, measured as sulfur dioxide shall not exceed the following values:

- (1) Four-tenths parts per million (0.4 PPM) by volume average for a one-hour period more than once per one-year period.
- (2) Twenty-five one-hundredths parts per million (0.25 PPM) by volume average for a one-hour period more than twice in a consecutive seven-day period.
- (3) One-tenth parts per million (0.1 PPM) by volume average for a one-day period more than once per one-year period.
- (4) Two one-hundredths parts per million (0.02 PPM) by volume average for a one-year period.

[Statutory Authority: Chapter 70.94 RCW. 87-20-020 (Order 87-22), § 173-474-100, filed 9/30/87.]

WAC 173-474-150 Measurement method. For determining compliance with this regulation, sulfur oxides shall be measured by methods approved by, and on file with, the department. Other methods equivalent in sensitivity, accuracy, reproducibility, and selectivity to the

[Title 173 WAC—p 589]

approved methods may be used after approval by the department.

[Statutory Authority: Chapter 70.94 RCW, 87-20-020 (Order 87-22), § 173-474-150, filed 9/30/87.]

WAC 173-474-160 Data reporting. (1) Air authorities sampling for sulfur oxides shall notify the department of all violations of these standards. The notification shall be submitted quarterly. Summaries shall provide the following information:

- (a) Location of sampler.
- (b) Time period (hours, days, and year).
- (c) Actual concentrations recorded that exceeded the standard.

(2) The department will give quarterly notice to an air authority of infractions of the standards within its jurisdiction. This notice will include:

- (a) Location.
- (b) Time period and dates.
- (c) Concentrations recorded.

[Statutory Authority: Chapter 70.94 RCW, 87-20-020 (Order 87-22), § 173-474-160, filed 9/30/87.]

Chapter 173-475 WAC

AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE, OZONE, AND NITROGEN DIOXIDE

WAC

173-475-010	Purpose.
173-475-020	Definitions.
173-475-030	Air quality standards.
173-475-040	Measurement methods.
173-475-050	Reporting of data.

WAC 173-475-010 Purpose. These rules implement chapter 70.94 RCW, the Washington State Clean Air Act, and chapter 163, Laws of 1979 ex. sess. The purpose of this chapter is to set statewide air quality standards for carbon monoxide, ozone, and nitrogen dioxide.

[Statutory Authority: RCW 43.21A.080, 70.94.331, 70.120.030, and 70.120.120, 80-03-071 (Order DE 79-36), § 173-475-010, filed 2/29/80.]

WAC 173-475-020 Definitions. (1) "Air quality standard" means an established concentration, exposure time, or frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(2) "Ambient air" means the surrounding outside air.

(3) "Department" means the state department of ecology.

(4) "National air monitoring stations (NAMS)" means fixed monitoring stations operated by the state and local air pollution control agencies to meet national monitoring objectives. The stations are a subset of the SLAMS network and are sited with emphasis on urban and multi-source areas.

(5) "State and local air monitoring stations (SLAMS)" means stations designed to meet any of four basic monitoring objectives:

(a) To determine highest concentrations expected to occur;

(b) To determine representative concentrations in areas of high population density;

(c) To determine the impact on ambient air pollution levels of significant sources or source categories; and

(d) To determine general background concentration levels.

(6) "Special purpose monitoring stations (SPMS)" means monitoring stations operated by state and local air pollution control agencies to supplement the SLAMS network in order to increase the overall effectiveness of the state's monitoring efforts.

[Statutory Authority: RCW 43.21A.080, 70.94.331, 70.120.030, and 70.120.120, 80-03-071 (Order DE 79-36), § 173-475-020, filed 2/29/80. Formerly chapters 18-32 and 18-46 WAC (part).]

WAC 173-475-030 Air quality standards. (1) Carbon monoxide in the ambient air as measured at a SPMS designated by the department for the purpose of determining compliance with air quality standards, or at any NAMS or SLAMS, shall not exceed the following values:

(a) Nine parts per million (ten milligrams per cubic meter) eight-hour average concentration not to be exceeded more than once per year at any location where people would be exposed to such concentrations for eight consecutive hours or more. Compliance shall be based on data that begins and ends on a clock hour. There shall be no overlapping of hours in any violation period. A maximum of three violations can occur in any one day.

(b) Thirty-five parts per million (forty milligrams per cubic meter) one-hour average concentration not to be exceeded more than once per year at any location where people would be exposed to such concentrations for one hour or more. Compliance shall be determined from data that begins on a clock hour.

(2) Ozone in the ambient air as measured at a SPMS designated by the department for the purpose of determining compliance with this air quality standard, or at any NAMS or SLAMS, shall not exceed 0.12 parts per million (two hundred and thirty-five milligrams per cubic meter) hourly concentration on more than 1.0 days per calendar year as determined under the following conditions:

(a) Three calendar years of data shall be used in determining compliance with this standard. If three years of data are not available, a minimum of one calendar year must be used;

(b) All hourly measurements must start on the clock hour; and

(c) All daily maximum hourly averages not available for a year shall be accounted for by use of the following equation:

$$e = v + v/n (N-n-z)$$

e = the estimated number of potential times the allowed concentrations are exceeded for the year.

N = the number of required monitoring days in the year.

n = the number of days that valid data was available.

v = the number of days that readings have exceeded compliance level.

z = the number of days that readings are assumed to be less than the level of the standard. If a day should be included is based on whether the daily maximum one-hour reading on both the preceding day and the following day do not exceed 0.09 ppm ozone.

(3) Nitrogen dioxide. The annual arithmetic mean of nitrogen dioxide readings in the ambient air measured at a SPMS designated by the department for the purpose of determining compliance with this air quality standard, or at any NAMS or SLAMS, shall not exceed 0.05 parts per million (one hundred micrograms per cubic meter).

[Statutory Authority: RCW 43.21A.080, 70.94.331, 70.120.030, and 70.120.120. 80-03-071 (Order DE 79-36), § 173-475-030, filed 2/29/80. Formerly WAC 18-32-020 and 18-46-030.]

WAC 173-475-040 Measurement methods. Measurements for determining compliance with WAC 173-475-030 shall be made by equipment and procedures approved by and on file with the department. All methods and procedures shall be available to the public upon request.

[Statutory Authority: RCW 43.21A.080, 70.94.331, 70.120.030, and 70.120.120. 80-03-071 (Order DE 79-36), § 173-475-040, filed 2/29/80. Formerly WAC 18-32-040 and 18-46-040.]

WAC 173-475-050 Reporting of data. Local and regional air pollution control agencies shall notify the department of all occurrences which exceed the applicable standards for carbon monoxide, ozone, or nitrogen dioxide. Notification shall be made quarterly and shall include:

- (a) Location of monitoring sites by address and UTM coordinates;
- (b) Date and time of each violation;
- (c) Concentrations recorded; and
- (d) Method of sampling used.

[Statutory Authority: RCW 43.21A.080, 70.94.331, 70.120.030, and 70.120.120. 80-03-071 (Order DE 79-36), § 173-475-050, filed 2/29/80. Formerly WAC 18-32-050 and 18-46-050.]

Chapter 173-480 WAC

AMBIENT AIR QUALITY STANDARDS AND EMISSION LIMITS FOR RADIONUCLIDES

WAC

173-480-010	Purpose.
173-480-020	Applicability.
173-480-030	Definitions.
173-480-040	Ambient standard.
173-480-050	General standards for maximum permissible emissions.
173-480-060	Emission standards for new and modified emission units.
173-480-070	Emission monitoring and compliance procedures.
173-480-080	Regulatory actions and penalties.

(1989 Ed.)

WAC 173-480-010 Purpose. The purpose of this chapter is to define maximum allowable levels for radionuclides in the ambient air and control emissions from specific sources.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-010, filed 5/7/86.]

WAC 173-480-020 Applicability. (1) The ambient air standards shall apply to the entire state. Measurements may be made at all points up to property lines of point, area and fugitive emission sources.

(2) The emission limits of this chapter shall apply to all radionuclide emission units.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-020, filed 5/7/86.]

WAC 173-480-030 Definitions. Unless a different meaning is clearly required by context words and phrases used in this chapter shall have the following meanings: General terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to the standards and limits of radionuclides as defined in this section.

(1) Best available radionuclide control technology "BARCT" means technology which will result in a radionuclide emission limitation based on the maximum degree of reduction for radionuclides which would be emitted from any proposed new or modified emission units which the permitting authority on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such emission unit or modification through application of production processes or available methods, systems, and techniques. In no event shall application of best available radionuclide technology result in emissions of radionuclides which would exceed the ambient annual standard limitation specified in this chapter.

(2) "Critical organ" means the most exposed human organ or tissue exclusive of the skin (integumentary system) and the cornea.

(3) "Dose equivalent" means the product of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quantity of radiation and its distribution in the body.

(4) "Radionuclide" means any nuclide that emits radiation.

(5) "Rem" means a unit of dose equivalent radiation.

(6) "Whole body" means all human organs or tissue exclusive of the skin (integumentary system) and the cornea.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-030, filed 5/7/86.]

WAC 173-480-040 Ambient standard. Emissions of radionuclides in the air shall not cause a maximum accumulated dose equivalent of more than 25 mrem/y to the whole body or 75 mrem/y to a critical organ of any member of the public. Doses due to radon-220, radon-222, and their respective decay products are excluded from these limits. Compliance with the standard shall be determined by procedures in WAC 173-480-070.

[Title 173 WAC—p 591]

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-040, filed 5/7/86.]

WAC 173-480-050 General standards for maximum permissible emissions. (1) All radionuclide emission units are required to meet the emission standards in this chapter. At a minimum all emission units shall meet WAC 402-10-010 requiring every reasonable effort to maintain radioactive materials in effluents to unrestricted areas, as low as reasonably achievable (ALARA). For the purposes of this chapter, control equipment of facilities operating under ALARA shall be defined as reasonably available control technology (RACT).

(2) PSD: The emission requirements for an emission unit of radionuclides shall be the same for all areas of the state independent of prevention of significant deterioration (PSD) classification.

(3) Whenever another federal or state regulation or limitation in effect controls the emission of radionuclides to the ambient air, the more stringent control of emissions shall govern.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-050, filed 5/7/86.]

WAC 173-480-060 Emission standards for new and modified emission units. (1) Whenever the construction, installation or establishment of a new emission unit subject to this chapter is contemplated, the project shall utilize best available radionuclide control technology (BARCT).

(2) Addition to, enlargement, modification, replacement, alteration of any process or emission unit or replacement of air pollution control equipment which will significantly change potential radionuclide emissions or significantly change the dose equivalent will require the proposed project to utilize best available radionuclide control technology (BARCT) for emission control.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-060, filed 5/7/86.]

WAC 173-480-070 Emission monitoring and compliance procedures. (1) The procedures specified in chapter 402-80 WAC shall be used to determine compliance with the standard. Radionuclide emissions shall be determined and dose equivalents to members of the public shall be calculated using department of social and health services approved sampling procedures, department of social and health services approved models, or other procedures, including those based on environmental measurements that department of social and health services has determined to be suitable.

(2) Compliance with this standard shall be determined by calculating the dose to members of the public at the point of maximum annual air concentration in an unrestricted area where any member of the public may be.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-070, filed 5/7/86.]

[Title 173 WAC—p 592]

WAC 173-480-080 Regulatory actions and penalties. (1) The department or any activated local air pollution control authority may enforce this chapter with the provisions of WAC 173-403-170, Regulatory actions; and 173-403-180, Criminal penalties.

(2) The responsible person may also be subject to the provisions of RCW 34.04.030, Emergency rules and amendments; 70.98.130, Administrative procedure; 70.98.140, Injunction proceedings; and 70.98.200, Penalties as cited by the department of social and health services.

[Statutory Authority: RCW 70.94.331. 86-10-053 (Order 86-04), § 173-480-080, filed 5/7/86.]

Chapter 173-481 WAC

AMBIENT AIR QUALITY AND ENVIRONMENTAL STANDARDS FOR FLUORIDES

(Formerly chapter 18-48 WAC)

WAC

173-481-010	Purpose.
173-481-020	Applicability.
173-481-030	Definitions.
173-481-100	Forage standards.
173-481-110	Ambient standards.
173-481-150	Compliance with standards.
173-481-160	Sampling and analysis.

WAC 173-481-010 Purpose. This chapter promulgated under RCW 70.94.305 and 70.94.331 establishes fluoride standards for the protection of livestock and vegetation. Standards address the fluoride content of forage and gaseous fluorides in the ambient air.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-010, filed 9/16/87.]

WAC 173-481-020 Applicability. The provisions of this chapter apply to all areas of the state of Washington.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-020, filed 9/16/87.]

WAC 173-481-030 Definitions. Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to standards for fluorides as defined below:

(1) "Forage" means grasses, pasture and other vegetation that is consumed or is intended to be consumed by livestock.

(2) "Cured forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-030, filed 9/16/87.]

WAC 173-481-100 Forage standards. (1) All sampling to determine compliance with these standards shall be conducted in locations and during time periods consistent with protecting livestock and vegetation.

(2) The fluoride content of forage calculated by dry weight shall not exceed:

(a) Forty parts per million fluoride ion (40 ppm F) average for any twelve consecutive months.

(b) Sixty parts per million fluoride ion (60 ppm F) each month for more than two consecutive months.

(c) Eighty parts per million fluoride ion (80 ppm F) more than once in any two consecutive months.

(3) In areas where cattle are not grazed continually, but are fed cured forage part of the year, the fluoride content of the cured forage shall be used as the forage fluoride content for as many months as it is fed to establish the yearly average.

(4) Cured forage grown for sale as livestock feed shall not exceed forty parts per million fluoride ion (40 ppm F) by dry weight after curing or preparing for sale.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-100, filed 9/16/87.]

WAC 173-481-110 Ambient standards. (1) All sampling to determine compliance with these standards shall be conducted in locations and during time periods consistent with protecting livestock and vegetation.

(2) Gaseous fluorides in the ambient air calculated as HF at standard conditions shall not exceed:

(a) Three and seven-tenths micrograms per cubic meter ($3.7 \mu\text{g}/\text{m}^3$) average for any twelve consecutive hours;

(b) Two and nine-tenths micrograms per cubic meter ($2.9 \mu\text{g}/\text{m}^3$) average for any twenty-four consecutive hours;

(c) One and seven-tenths micrograms per cubic meter ($1.7 \mu\text{g}/\text{m}^3$) average for any seven consecutive days;

(d) Eighty-four one-hundredths micrograms per cubic meter ($0.84 \mu\text{g}/\text{m}^3$) average for any thirty consecutive days;

(e) Five-tenths micrograms per cubic meter ($0.5 \mu\text{g}/\text{m}^3$) average for the period March 1 through October 31 of any year.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-110, filed 9/16/87.]

WAC 173-481-150 Compliance with standards. When requested by the department, persons emitting fluorides to the ambient air shall demonstrate their compliance with WAC 173-481-100 and 173-481-110 by conducting a monitoring program approved in writing by the department. All monitoring data shall be submitted to the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-150, filed 9/16/87.]

WAC 173-481-160 Sampling and analysis. Sampling and analysis shall be in accordance with techniques approved by and on file with the department. Other sampling and methods of analysis which are equivalent in accuracy, sensitivity, reproducibility and applicability under similar conditions may be used after approval by the department.

[Statutory Authority: Chapter 70.94 RCW. 87-19-073 (Order 87-21), § 173-481-160, filed 9/16/87.]

(1989 Ed.)

Chapter 173-490 WAC

EMISSION STANDARDS AND CONTROLS FOR SOURCES EMITTING VOLATILE ORGANIC COMPOUNDS (VOC)

WAC

173-490-010	Purpose.
173-490-020	Definitions.
173-490-025	General applicability.
173-490-030	Registration and reporting.
173-490-040	Requirements.
173-490-070	Schedule of control dates.
173-490-071	Alternative schedule of control dates.
173-490-080	Exceptions.
173-490-090	New source review.
173-490-120	Compliance schedules.
173-490-130	Regulatory actions.
173-490-135	Criminal penalties.
173-490-140	Appeals.
173-490-150	Variance.
173-490-200	Petroleum refinery equipment leaks.
173-490-201	Petroleum liquid storage in external floating roof tanks.
173-490-202	Leaks from gasoline transport tanks and vapor collection systems.
173-490-203	Perchloroethylene dry cleaning systems.
173-490-204	Graphic arts systems.
173-490-205	Surface coating of miscellaneous metal parts and products.
173-490-207	Surface coating of flatwood paneling.
173-490-208	Aerospace assembly and component coating operations.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-490-206	Synthesized pharmaceutical products. [Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-206, filed 8/20/80.] Repealed by 82-16-021 (Order DE 82-22), filed 7/27/82. Statutory Authority: Chapters 70.94 and 43.21A RCW.
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WAC 173-490-010 Purpose. The purpose of this chapter is to establish control requirements for sources emitting volatile organic compounds.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-010, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-010, filed 5/8/79.]

WAC 173-490-020 Definitions. The specific definitions of terms contained in chapter 173-400 WAC are by this reference incorporated into this chapter, and all words and phrases there defined shall, when used in this chapter, carry the meanings set forth in chapter 173-400 WAC. Unless a different meaning is indicated by context, the following words and phrases, as used in this chapter, shall have the following meanings:

(1) "Bottom loading" means the filling of a tank through a submerged fill line.

(2) "Bulk gasoline plant" means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.

(3) "Class II hardboard paneling finish" means finishes which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(4) "Closed refinery system" means a system that will process or dispose of those VOC collected from another system. The mass quantity of collected VOC emitted to the ambient air from the closed refinery system shall by comparison not exceed that required for a disposal system.

(5) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

(6) "Condenser" means a device for cooling a gas stream to a temperature where specific volatile organic compounds become liquid and are removed.

(7) "Control system" means one or more control devices, including condensers, that are designed and operated to reduce the quantity of VOC emitted to the atmosphere.

(8) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and sulfur, nitrogen or oxygen derivatives of hydrocarbons which is a liquid at standard conditions.

(9) "Cutback asphalt" means an asphalt that has been blended with petroleum distillates to reduce the viscosity for ease of handling and lower application temperature. An inverted emulsified asphalt shall be considered a cutback asphalt when the continuous phase of the emulsion is a cutback asphalt.

(10) "Demonstrate" means a presentation of the necessary data and calculations to support the required conclusion. The material is recorded for each event and made a part of air quality records or reports required by the state.

(11) "Disposal system" means a process or device that reduces the mass quantity of the VOC that would have been emitted to the ambient air by at least ninety percent prior to their actual emission.

(12) "Dry cleaning facility" means a facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes, but is not limited to, any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps and attendant piping and valves.

(13) "External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(14) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

(15) "Gas service" means equipment that processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase.

(16) "Gasoline" means a petroleum distillate having a true vapor pressure greater than 200 mm of Hg (4 psia)

at 20°C, that is a liquid at standard conditions of 760 mm of Hg and 20°C, and is used as a fuel for internal combustion engines.

(17) "Gasoline dispensing facility" means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

(18) "Gasoline loading terminal" means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.

(19) "Hardboard" means a panel manufactured primarily from interfelted lignocellulosic fibers which are consolidated under heat and pressure in a hot press.

(20) "Hardboard plywood" means plywood whose surface layer is a veneer of hardwood.

(21) "Lease custody transfer" means the transfer of produced crude oil or condensate, after processing or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(22) "Liquid-mounted seal" means a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

(23) "Liquid service" means equipment that processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase.

(24) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

(25) "Packaging rotogravure printing" means roto-gravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

(26) "Petroleum liquids" means crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery, excluding No. 2 through 6 fuel oils (ASTM D396-69), No. 2GT through 4 GT gas turbine fuel oils (ASTM D2880-71) or No. 2D and 4D diesel fuel oils (ASTM D975-68).

(27) "Petroleum refinery" means a facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting or reforming unfinished petroleum derivatives. Not included are facilities re-refining used motor oils or waste chemicals, processing finished petroleum products, separating blended products, or air blowing asphalt.

(28) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(29) "Proper attachment fittings" means hardware for the attachment of gasoline transfer or vapor collection lines that meet or exceed industrial standards or specifications and the standards of other agencies or institutions responsible for safety and health.

(30) "Publication rotogravure printing" means roto-gravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(31) "Reactor" means a vessel that may be jacketed for temperature control in which to conduct chemical reactions.

(32) "Refinery unit" means a set of components that are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

(33) "Roll printing" means the application of words, designs, and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

(34) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells.

(35) "Separation operation" means a process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

(36) "Submerged fill line" means a pipe, tube, fitting or other hardware for loading liquids into a tank with either a discharge opening flush with the tank bottom; or with a discharge opening entirely below the lowest normal operating drawoff level or that level determined by a liquid depth two and one half times the fill line diameter when measured in the main portion of the tank, but not in sumps or similar protrusions.

(37) "Submerged loading" means the filling of a tank with a submerged fill line.

(38) "Suitable closure or cover" means a door, hatch, cover, lid, pipe cap, pipe blind, valve or similar device that prevents the accidental spilling or emitting of VOC. Pressure relief valves, aspirator vents or other devices specifically required for safety and fire protection are not included.

(39) "Thin particleboard" means a manufactured board one-quarter inch or less in thickness made of individual wood particles which have been coated with a binder and former into flat sheets by pressure.

(40) "Tileboard" means panelling that has a colored waterproof surface coating.

(41) "Transport tank" means a container having a usable liquid volume greater than one thousand liters (260 gallons) used for shipping gasoline on land, including but not limited to, tank trucks, tank trailers, railroad tank cars, and metallic or nonmetallic tanks or cells conveyed on any vehicle.

(42) "True vapor pressure" means the equilibrium partial pressure of a petroleum liquid as determined with methods described in American Petroleum Institute Bulletin 2517, 1980.

(43) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.

(44) "Vapor collection system" means a closed system to conduct vapors displaced from a tank being filled into

the tank being emptied, a vapor holding tank, or a vapor control system.

(45) "Vapor control system" means a system designed and operated to reduce or limit the emission of VOC, or to recover the VOC to prevent their emission into the ambient air.

(46) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

(47) "Volatile organic compound" means a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 mm of Hg (millimeters of mercury) at a temperature of 20°C. Excluded compounds are methane, ethane, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), methylene chloride and 1, 1, 1-trichloroethane (methyl chloroform).

(48) "Waxy, heavy pour crude oil" means a crude oil with a pour point of 50°F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-020, filed 7/27/82. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-003 (Order DE 80-54), § 173-490-020, filed 1/8/81. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-020, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-020, filed 5/8/79.]

WAC 173-490-025 General applicability. (1) This chapter shall apply to the specified emission sources of volatile organic compounds located in or operating within designated ozone nonattainment areas of the state of Washington.

(2) Sources of volatile organic compound emissions may be exempted, by the director, from any or all requirements to control or reduce the emission of volatile organic compounds if the source will be permanently shutdown by January 1, 1983 and the owner or operator of the source complies with a phase-out schedule approved by the director. The phase-out schedule shall contain specific actions and dates necessary to the orderly termination of the source's activities. The operation of the emission source after January 1, 1983 shall be permitted only when done in full compliance with all other applicable requirements of this chapter.

(3) This chapter does not apply to those sources under the jurisdiction of the energy facility site evaluation council (EFSEC).

(4) A source of volatile organic compound emissions not belonging to any of the categories listed in WAC 173-490-030 nor specifically identified in any section, but which is located on the same or adjacent property and owned or operated by the same person as a regulated emission source, shall not be required to comply with the regulations of this chapter.

(5) Sources of volatile organic compound emissions may be exempted, by the director, from any or all requirements to control or reduce the emissions of volatile organic compounds when the source is a development operation and the equipment is used exclusively for research, laboratory analysis or determination of product quality and commercial acceptance, provided emissions of volatile organic compounds from such operations do not exceed 300 kg (660 lbs) per month.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-025, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-025, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-025, filed 5/8/79.]

WAC 173-490-030 Registration and reporting. (1) The owner or operator of a stationary emission source of volatile organic compounds in the following source categories and located in a designated ozone nonattainment area shall register the source with the department unless registration is required by an air pollution control authority with jurisdiction over the source or the source is under the jurisdiction of the energy facility site evaluation council (EFSEC).

- (a) Petroleum refineries.
- (b) Petroleum liquid storage tanks.
- (c) Gasoline loading terminals.
- (d) Bulk gasoline plants.
- (e) Gasoline dispensing facilities.
- (f) Surface coaters.
- (g) Open top vapor degreasers.
- (h) Conveyorized degreasers.
- (i) Gasoline transport tanks.
- (j) Vapor collection systems.
- (k) Perchloroethylene dry cleaning systems.
- (l) Graphic arts systems.
- (m) Surface coaters of miscellaneous metal parts and products.
- (n) Synthesized pharmaceutical manufacturing facilities.
- (o) Flatwood panel manufacturers and surface finishing facilities.

(2) The owner or operator of a registered stationary emission source of volatile organic compounds shall furnish, upon request of the director, such data as the director may require to calculate the emissions of the source and evaluate the emission control program. The data shall be supplied in a form and according to instructions received from the director or local air pollution control authority. When required, the data shall be submitted not later than sixty days following the request.

(3) A new emission source of volatile organic compounds that must comply with any requirements in WAC 173-490-040, 173-490-200, 173-490-201, 173-490-202, 173-490-203, 173-490-204, 173-490-205, 173-490-206 and 173-490-207, shall register with the department or authority prior to operation of the new source, and shall submit sufficient information to demonstrate that the new source is capable of complying with the requirements in this chapter. An opportunity

shall be provided for an inspection of the new source prior to its operation.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-030, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-030, filed 5/8/79.]

WAC 173-490-040 Requirements. Sources shall demonstrate compliance with this chapter using the sampling procedures on file with and approved by the director.

(1) Petroleum refineries.

(a) This chapter shall apply to all petroleum refineries with a crude oil or feed stock capacity greater than one million five hundred thousand liters (9,000 bbl) per day.

(b) A petroleum refinery with a crude oil or feed stock capacity of eight million three hundred twenty-eight thousand liters (50,000 bbl) per day or less and which is owned or controlled by a refiner with a total combined crude oil or feed stock capacity of twenty-three million liters (137,500 bbl) per day or less shall be classified as a small refinery.

(c) Vacuum producing system.

(i) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system.

(ii) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

(d) Wastewater separator.

(i) Wastewater separators with demonstrated VOC emissions less than twenty-five tons annually shall be exempt from the requirements of WAC 173-490-040 (1)(d)(ii) and (iii).

(ii) Wastewater separator forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or a double deck-type cover equipped with closure seals between the cover edge and compartment wall.

(iii) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

(e) Process unit turnaround.

(i) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system.

(ii) The pressure in a process unit following depressurization for turnaround shall be less than five psig before venting to the ambient air.

(iii) Venting or depressurization to the ambient air of a process unit for turnaround at a pressure greater than five psig shall be allowed if the owner demonstrates the actual emission of VOC to the ambient air is less than permitted by WAC 173-490-040 (1)(e)(ii).

(f) Maintenance and operation of emission control equipment. Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a

manner commensurate with the level of maintenance and housekeeping of the overall plant.

(2) Petroleum liquid storage tanks.

(a) All fixed-roof tanks except as noted in subparagraph (d) of this subsection storing volatile organic petroleum liquids with a true vapor pressure as stored greater than 78 mm of Hg (1.5 psi), but less than 570 mm of Hg (11.1 psi) at actual monthly average storage temperatures and having a capacity greater than one hundred fifty thousand liters (40,000 gallons) shall comply with one of the following:

(i) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources - Storage Vessels for Petroleum Liquids (40 CFR 60, subpart K).

(ii) Be retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the federal standards referred to in WAC 173-490-040 (2)(a)(i) or its equivalent.

(iii) Be fitted with a floating roof or internal floating cover meeting the manufacturer's equipment specifications in effect when it was installed.

(b) All seals used in WAC 173-490-040 (2)(a)(ii) and (iii) are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

(c) All openings not related to safety are to be sealed with suitable closures.

(d) Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in WAC 173-490-040 (4)(b) shall be exempt from the requirements of WAC 173-490-040(2).

(3) Gasoline loading terminals.

(a) This chapter shall apply to all gasoline loading terminals with an average annual daily gasoline throughput greater than seventy-five thousand liters (20,000 gallons).

(b) Loading facilities. Facilities for the purpose of loading gasoline into any transport tank shall be equipped with a vapor recovery system (VRS) as described in WAC 173-490-040 (3)(c) and comply with the following conditions:

(i) The loading facility shall employ submerged loading or bottom loading for all transport tanks.

(ii) The VRS shall be connected to the transport tank being loaded and operating during the entire loading of every transport tank loaded at the facility.

(iii) The loading of all transport tanks shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released to the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions when the back pressure in the VRS collection lines is lower than the relief pressure setting of the transport tank's relief valves.

(iv) All loading lines and vapor lines shall be equipped to close automatically upon disconnect. The point of closure shall be on the tank side of any hose or intermediate connecting line.

(c) Vapor recovery system (VRS). The VRS shall be designed and built according to accepted industrial practices and meet the following conditions:

(i) The VRS shall prevent at least ninety percent by weight of the gasoline vapors displaced during loading of each transport tank from entering the ambient air and in no case shall the gasoline vapors emitted to the ambient air exceed eighty milligrams per liter of gasoline loaded.

(ii) The VRS shall be equipped with a signal device to alert personnel when the system is not operating or unintentionally shuts down.

(iii) The back pressure in the VRS collection lines shall not exceed the transport tank's pressure relief settings.

(d) Alternative loading facility. The loading of transport tanks by other means and using other vapor control systems shall require the facility owner to demonstrate that the emission of gasoline vapors to the ambient air is less than eighty milligrams per liter of gasoline loaded.

(4) Bulk gasoline plants.

(a) This chapter shall apply to all bulk gasoline plants with an annual average daily gasoline throughput greater than fifteen thousand liters (4,000 gallons).

(b) Storage tanks. All storage tanks with a capacity greater than two thousand one hundred liters (550 gallons) and used for the storage of gasoline shall comply with the following conditions:

(i) Each storage tank shall be equipped with a submerged fill line.

(ii) Each storage tank shall be equipped for vapor balancing of gasoline vapors with transport tanks during gasoline transfer operations.

(iii) The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iv) The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(c) Transport tanks. All transport tanks, except those meeting the conditions in WAC 173-490-040 (4)(d), transferring gasoline with storage tanks in a bulk gasoline plant shall comply with the following conditions:

(i) The transport tank shall be equipped with the proper attachment fittings to make vapor tight connections for vapor balancing with storage tanks.

(ii) The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iii) The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(d) Transport tanks used for gasoline and meeting all of the following conditions shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines:

(i) The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of WAC 173-490-040(5); and

(ii) The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.

(e) Gasoline transfer operations. No owner or operator of a bulk gasoline plant or transport tank shall allow the transfer of gasoline between a transport tank and a storage tank except under the following conditions:

(i) All tanks shall be submerged filled or bottom loaded.

(ii) The loading of all tanks, except those exempted under WAC 173-490-040 (4)(d) shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions.

(f) Equipment or system failures. Failures or leaks in the vapor balance system shall be limited by the following conditions:

(i) During the months of June, July, August and September, failures of the vapor balance system to comply with this chapter shall require the discontinuation of gasoline transfer operations for the failed part of the system. Other transfer points that can continue to operate in compliance may be used.

(ii) The loading or unloading of the transport tank connected to the failed part of the vapor balance system may be completed.

(iii) Breakdowns and upset conditions during all months of the year shall comply with the additional provisions of WAC 173-400-120(4).

(g) The owner or operator of a bulk gasoline plant or transport tank shall take all reasonable necessary measures to prevent the spilling, discarding in sewers, storing in open containers or handling of gasoline in a manner on the plant site that will result in evaporation to the ambient air.

(5) Gasoline dispensing facilities (Stage I).

(a) This chapter shall apply to all gasoline dispensing facilities with a total annual gasoline output greater than seven hundred fifty-seven thousand liters (200,000 gallons) or sixty-three thousand one hundred liters (16,670 gallons) per month and total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons).

(b) All gasoline storage tanks of the facilities defined in WAC 173-490-040 (5)(a) shall be equipped with submerged fill lines and fittings for vapor balancing gasoline vapors with the delivery transport tank. Storage tanks required to comply are:

(i) All tanks with a capacity greater than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1979, except as provided for in WAC 173-490-040 (5)(c).

(ii) All tanks with a capacity greater than one thousand liters (260 gallons) installed on or after January 1, 1979.

(c) Gasoline storage tanks with offset fill lines shall be exempt from the requirement of WAC 173-490-040 (5)(b) if installed prior to January 1, 1979.

(d) The vapor balance system (for the purpose of measuring compliance with the emission control efficiency) shall consist of the transport tank, gasoline vapor transfer lines, storage tank and all tank vents. The vapor balance system shall prevent at least ninety percent of the displaced gasoline vapors from entering the ambient air. A vapor balance system that is designed, built and operated according to accepted industrial practices will satisfy this requirement.

(e) The owner or operator of a gasoline dispensing facility shall not permit the loading of gasoline into a storage tank equipped with vapor balance fittings unless the vapor balance system is attached to the transport tank and operated satisfactorily.

(6) Surface coaters.

The operation of a coater and dryer, that may serve one or more process lines, shall comply with the following emission limits if the uncontrolled emissions of VOC from the coater, flashoff areas, and dryer would be greater than 18 kg (40 pounds) in any given twenty-four hour period. The emission limits and uncontrolled emission quantity shall include the additional quantity of emissions from the dryer during the twelve hour period after application of the coating.

Process	Limitation Grams/Liter of Coating (Excluding Water)	lb/Gal. of Coating (Excluding Water)
Can Coating		
Sheet basecoat and overvarnish; two-piece can exterior	340	2.8
Two and three piece can interior body spray, two piece can exterior end	510	4.2
Side-seam spray	660	5.5
End sealing compound	440	3.7
Coil coating	310	2.6
Fabric coating	350	2.9
Vinyl coating	450	3.8
Paper coating	350	2.9
Auto and light duty truck coating		
Prime	230	1.9
Topcoat	340	2.8
Repair	580	4.8
Metal furniture coating	360	3.0
Magnet wire coating	200	1.7
Large appliance coating	340	2.8

(7) Open top vapor degreasers.

(a) All open top vapor degreasers shall comply with the following equipment specifications:

(i) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust. When a degreaser has a freeboard ratio equal to or greater than 0.75 and the opening is greater than one square meter (10 square feet) the cover shall be power operated.

- (ii) Have one of the following:
- (A) A freeboard ratio equal to or greater than 0.75.
 - (B) A freeboard chiller.
 - (C) A closed design such that the cover opens only when the part enters or exits the degreaser.
- (iii) Be equipped with at least the following three safety switches:
- (A) Condenser-flow switch and thermostat (shuts off sump heat if coolant is either not circulating or too warm).
 - (B) Spray safety switch (shuts off spray pump if the vapor level drops excessively).
 - (C) Vapor level control thermostat (shuts off sump heat when vapor level rises too high).
- (iv) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:
- (A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope.
 - (B) The cover of the degreaser should be closed at all times except when processing workloads.
 - (C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet per minute).
 - (D) Rack parts so as to facilitate solvent drainage from the parts.
 - (E) Workloads should not occupy more than one-half of the vapor-air interface area.
 - (F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be less than 3.35 meters per minute (11 feet per minute).
 - (G) Degrease the workload in the vapor zone until condensation ceases.
 - (H) Spraying operations should be done within the vapor layer.
 - (I) Hold parts in the degreaser until visually dry.
 - (J) When equipped with a lip exhaust, the fan should be turned off when the cover is closed.
 - (K) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.
 - (L) Water shall not be visible in the solvent stream from the water separator.
- (b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
- (c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leak-proof couplings.
- (d) Still and sump bottoms shall be kept in closed containers.
- (e) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal.
- (8) ConveyORIZED degreasers.
- (a) The owner or operator of conveyORIZED cold cleaners and conveyORIZED vapor degreasers shall comply with the following operating requirements:
 - (i) Exhaust ventilation shall not exceed twenty cubic meters per minute of square meter (65 cfm per ft.²) of degreaser opening, unless necessary to meet OSHA requirements.
 - (ii) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:
 - (A) Rack parts for best drainage.
 - (B) Maintain vertical speed of conveyed parts to less than 3.35 meters per minute (11 feet per minute).
 - (C) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.
 - (D) Water shall not be visible in the solvent stream from the water separator.
 - (iii) Vapor degreasers shall be equipped with at least the following three safety switches:
 - (A) Condenser flow switch and thermostat (shuts off sump heat if coolant is either not circulating or too warm).
 - (B) Spray safety switch (shuts off spray pump if the vapor level drops excessively).
 - (C) Vapor level control thermostat (shuts off sump heat when vapor level rises too high).
 - (b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
 - (c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leak-proof couplings.
 - (d) Still and sump bottoms shall be kept in closed containers.
 - (e) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal.
 - (f) All conveyORIZED cold cleaners and conveyORIZED vapor degreasers with air/vapor interfaces of 2.0 m² or greater shall have one of the following major control devices installed and operating after April 1, 1982:
 - (i) Carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle (based on exhaust ventilation of 15 m²/min per m² of air/vapor area, when downtime covers are open), or
 - (ii) Refrigerated chiller with control effectiveness equal to or better than WAC 173-490-040 (8)(f)(i), or
 - (iii) A system with control effectiveness equal to or better than WAC 173-490-040 (8)(f)(i).
 - (9) Cutback asphalt paving.
 - (a) After June 1, 1981 all paving applications of cutback asphalts are prohibited during the months of June, July, August and September, except as provided for in WAC 173-490-040 (9)(b).

(b) The following paving uses and applications of cut-back asphalts are permitted during all months of the year.

(i) As a penetrating prime coat on aggregate bases prior to paving.

(ii) The manufacture of patching mixes used exclusively for pavement maintenance and needed to be stockpiled for times longer than one month.

(iii) All paving uses when the temperature during application is below 10°C (50°F). Any person using cut-back asphalt for paving shall demonstrate that the ambient air temperature at 8 a.m. (PST) is below 50°F. The paving application of cutback asphalt when the ambient air temperature is 50°F or higher is in violation of this chapter.

(10) Cold cleaners.

(a) The owner or operator of all cold cleaners shall comply with the following equipment specifications:

(i) Be equipped with a cover that is readily opened and closed.

(ii) Be equipped with a drainrack that returns the drained solvent to the solvent bath.

(iii) Have a freeboard ratio of at least 0.5.

(iv) Have a visible fill line.

(b) An owner or operator of a cold cleaner shall be responsible for following the required operating parameters and work practices. The owner shall post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the following work practices:

(i) The solvent level shall not be above the fill line.

(ii) The spraying of parts to be cleaned shall be performed only within the confines of the cold cleaner.

(iii) The cover of the cold cleaner shall be closed when not in use or when parts are being soaked or cleaned by solvent agitation.

(iv) Solvent-cleaned parts shall be rotated to drain cavities or blind holes and then set to drain until dripping has stopped.

(v) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal.

(c) The owner or operator shall maintain cold cleaners in good working condition and free of solvent leaks.

(d) If the solvent has a vapor pressure greater than 2.0 kPa (0.3 psi) measured at 38°C (100°F), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand.

(e) If the solvent has a vapor pressure greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(f) If the solvent has a vapor pressure greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), or if the solvent is heated above 50°C (120°F), then one of the following solvent vapor control systems must be used:

(i) The freeboard ratio must be equal to or greater than 0.70; or

(ii) Water must be kept over the solvent, which must be insoluble in and heavier than water; or

(iii) Other systems of equivalent control, such as a refrigerated chiller.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-040, filed 7/27/82. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-003 (Order DE 80-54), § 173-490-040, filed 1/8/81. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-040, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-040, filed 5/8/79.]

WAC 173-490-070 Schedule of control dates.

Emission sources required to meet any condition in WAC 173-490-040 in this chapter shall comply in a reasonable time, but not later than the following schedule where the numbers are the time in months following conditional or full approval of chapter 173-490 WAC, by the U.S. Environmental Protection Agency.

(1) Petroleum refineries.

(a) A schedule of control dates may be developed for each refinery on a case-by-case basis by the local air pollution control authority in consultation with refinery representatives. The schedule shall be submitted to the department within ninety days from the date of approval of this regulation by the U.S. EPA. The schedule shall then be submitted to the U.S. EPA for approval as a SIP revision.

(b) Should a schedule of control dates not be submitted to the department within the specified time period then the following schedule shall apply:

Notice of Construction	3
Contract Let	10
Commence Construction	12
Complete Construction	22
Final Compliance	24

(2) Petroleum liquid storage tanks.

Notice of Construction	2
Contract Let	20
Commence Construction	26
Complete Construction	29
Final Compliance	30

(3) Gasoline loading terminals.

Notice of Construction	2
Contract Let	6
Commence Construction	8
Complete Construction	11
Final Compliance	12

(4) Bulk gasoline plants.

Notice of Construction	2
Contract Let	12
Commence Construction	14
Complete Construction	17
Final Compliance	18

(5) Gasoline dispensing facilities.

Facility Serviced Primarily By:

	Terminals	Plants
Notice of Construction	2	2
Contract Let	6	12
Commence Construction	8	14
Complete Construction	11	17
Final Compliance	12	18

(6) Surface coaters.

	Solventless	Other
Plans Submitted	2	2
Contract Let	6	6
Commence Construction	8	8
Complete Construction	23	11
Final Compliance	24	12

(7) Open top vapor degreasers and conveyORIZED degreasers.

Notice of Construction	2
Contract Let	4
Commence Construction	5
Complete Construction	7
Final Compliance	8

(8) Cold cleaners.

Final compliance	8

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-070, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-070, filed 5/8/79.]

WAC 173-490-071 Alternative schedule of control dates. (1) The owner or operator of a source of volatile organic compound emissions subject to regulation under this chapter may submit to the director, and the director may approve, a proposed alternative schedule of control dates provided:

(a) The proposed alternative schedule is submitted prior to March 1, 1981;

(b) The owner or operator of the source provides sufficient information to justify the need for an alternative schedule;

(c) The alternative schedule contains increments of progress;

(d) Final compliance is achieved as expeditiously as practicable and before the photochemical oxidant attainment date.

(2) The owner or operator of a source of volatile organic compound emissions subject to an alternative schedule of control dates shall certify to the director within ten calendar days after the deadline for each increment of progress whether the required increment of progress has been met.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-071, filed 8/20/80.]

WAC 173-490-080 Exceptions. Exceptions to volatile organic compound emission standards and requirements.

(1) Other emission reduction methods may be employed if the source operator demonstrates to the department that they are at least as effective as the required methods.

(2) The operation of a natural gas-fired incinerator and associated capture system installed for the purpose of complying with this chapter shall be required only during the months of June, July, August and September, unless the operation of such devices is required for purposes of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-080, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-080, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-080, filed 5/8/79.]

WAC 173-490-090 New source review. Any new source of VOC emissions with a potential emission rate of one hundred tons per year is required to meet the new source review provisions of WAC 173-400-110.

[Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-090, filed 5/8/79.]

WAC 173-490-120 Compliance schedules. (1) Whenever a source is found to be in violation of the provisions of this chapter, the department may issue a regulatory order which will include a schedule of compliance to bring the source into compliance with this chapter. Opportunity for a public hearing on each proposed compliance schedule shall be provided by prominent advertisement of a notice identifying the proposal and announcing its availability for public inspection in at least one location in the county in which the source is located. No public hearing on a proposed compliance schedule shall be held before thirty days after the publication of the above notice.

(2) A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included within a regulatory order issued hereunder are being met.

[Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-120, filed 5/8/79.]

WAC 173-490-130 Regulatory actions. The department or authority may use the regulatory provisions of chapter 70.94 RCW to enforce the provisions of this chapter.

[Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-130, filed 5/8/79.]

WAC 173-490-135 Criminal penalties. Persons in violation of this chapter may be subject to the provisions of RCW 70.94.430.

[Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-135, filed 5/8/79.]

WAC 173-490-140 Appeals. Decisions and orders of the department may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

[Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-140, filed 5/8/79.]

WAC 173-490-150 Variance. Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the department for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) Sources in any area over which a local air pollution control agency has jurisdiction shall make application to the board of that agency rather than the department. The department or board may grant such variance, but only after public hearing or due notice.

(2) Variances granted by a local agency board for sources under their jurisdiction will be accepted as variances to this chapter.

(3) No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the federal environmental protection agency.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-150, filed 8/20/80. Statutory Authority: RCW 43.21A.080 and 70.94.331. 79-06-011 (Order DE 78-23), § 173-490-150, filed 5/8/79.]

WAC 173-490-200 Petroleum refinery equipment leaks. (1) Specific applicability. This section shall apply to all petroleum refineries as qualified in WAC 173-490-025.

(2) Provisions for specific processes.

(a) The owner or operator of a petroleum refinery shall:

(i) Develop a monitoring program consistent with the provisions in WAC 173-490-200(3);

(ii) Conduct a monitoring program consistent with the provisions in WAC 173-490-200(5);

(iii) Record all leaking components which have a VOC concentration greater than 10,000 ppm when tested according to the provisions in WAC 173-490-200(4) and place an identification tag on each component consistent with the provisions of WAC 173-490-200 (5)(c);

(iv) Correct and retest the leaking component, as defined in WAC 173-490-200 (2)(a)(iii), as soon as practicable, but not later than fifteen days after the leak is recorded. If a leak continues after all reasonable corrective actions have been taken, then the component shall be repaired or replaced on the next scheduled turnaround.

(v) Identify all leaking components, as defined in WAC 173-490-200 (2)(a)(iii), that cannot be corrected until the refinery unit is shut down for turnaround.

(b) The owner or operator of a petroleum refinery shall not install or operate a valve at the end of a pipe or line containing VOC unless the pipe or line is sealed

with a second suitable closure. Exceptions to this requirement are the ends of a pipe or line connected to pressure relief valves, aspirator vents or other devices specifically required to be open for safety protection. The sealing device may be removed only when a sample is being taken or during maintenance operations.

(3) Schedule of control dates.

(a) The owner or operator of a petroleum refinery shall meet the increments of progress contained in the following schedules or an approved alternative schedule of control dates as stipulated in WAC 173-490-071.

(b) Submit to the director a monitoring program by July 1, 1981. This program shall contain, at a minimum, a list of the refinery units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this chapter.

(c) The first quarter of monitoring shall be completed by December 15, 1981.

(4) Testing procedures. Testing and calibration procedures to determine compliance with this chapter shall be consistent with the procedures on file with and approved by the director.

(5) Monitoring.

(a) The owner or operator of a petroleum refinery shall conduct a monitoring program consistent with the following provisions:

(i) Monitor yearly by the methods referenced in WAC 173-490-200(4) all pump seals, pipeline valves in liquid service and process drains;

(ii) Monitor quarterly by the methods referenced in WAC 173-490-200(4) all compressor seals, pipeline valves in gaseous service and pressure relief valves in gaseous service;

(iii) Monitor weekly by visual methods all pump seals;

(iv) Monitor immediately any pump seal from which liquids are observed dripping;

(v) Monitor any relief valve within twenty-four hours after it has vented to the atmosphere; and

(vi) Monitor immediately after repair any component that was found leaking.

(b) Pressure relief devices that are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in WAC 173-490-200 (5)(a).

(c) The owner or operator of a petroleum refinery, upon the detection of a leaking component, as defined in WAC 173-490-200 (2)(a)(iii), shall affix a weather-proof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leak is corrected.

(6) Recordkeeping.

(a) The owner or operator of a petroleum refinery shall maintain a leaking component's monitoring log as specified in WAC 173-490-200 (2)(a)(iii) that shall contain, at a minimum, the following data:

(i) The name of the process unit where the component is located.

(ii) The type of component (e.g., valve, seal).

(iii) The tag number of the component.

(iv) The date on which a leaking component is discovered.

(v) The date on which a leaking component is repaired.

(vi) The date and instrument reading of the recheck procedure after a leaking component is repaired.

(vii) A record of the calibration of the monitoring instrument.

(viii) Those leaks that cannot be repaired until turnaround.

(ix) The total number of components checked and the total number of components found leaking.

(b) Copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.

(c) Copies of the monitoring log shall immediately be made available to the department, upon verbal or written request, at any reasonable time.

(7) Reporting. The owner or operator of a petroleum refinery shall notify the director in writing within forty-five days following each quarterly or annual inspection for component leaks when:

(a) The number of discovered leaks has increased by more than ten percent above the number recorded during the last inspection of the same components;

(b) The number of leaking components has increased for two consecutive quarterly or annual inspections;

(c) The number of leaks not corrected within fifteen days exceeds five percent of the leaks detected;

(d) The next scheduled process unit turnaround needed to repair an uncorrectable leak is more than twelve months away.

(8) Petition for alternative monitoring.

(a) After two complete liquid service inspections and five complete gaseous service inspections, the owner or operator of a petroleum refinery may petition the director for alternative monitoring procedures or a reduction in monitoring frequency.

(b) A petition for alternative monitoring procedures shall contain:

(i) The name and address of the company and the name and telephone number of the responsible person over whose signature the petition is submitted;

(ii) A detailed description of the problems encountered under WAC 173-490-200(5); and

(iii) A detailed description of the alternative monitoring procedures and how this alternative procedure will solve or reduce the problems encountered under WAC 173-490-200(5).

(c) A petition for a reduction in monitoring frequency shall contain:

(i) The information requested in WAC 173-490-200 (8)(b)(i);

(ii) A detailed description of the proposed component-monitoring schedule;

(iii) A demonstration by the owner or operator that the facility is currently operating with a low level of component leaks and is committed to a maintenance program that will assure a frequency and severity of component leaks as good as that attainable under WAC 173-490-200(2).

(d) An approved petition for a reduction in monitoring frequency shall begin with the next quarterly inspection and shall be valid for a period of twelve quarters (three years). At the time of the last inspection in the twelve quarters, a new submittal of the information required in WAC 173-490-200 (8)(c) shall be made if the reduced frequency of monitoring is to continue.

(e) The department may approve a part or all of a petition for alternative monitoring requested under WAC 173-490-200 (8)(b) or (c). Approval or disapproval will be in writing and within forty-five calendar days of receipt of the petition by the department. A failure to approve or disapprove a new petition or petition for renewal within the stated time limit shall be taken as an approval.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-200, filed 8/20/80.]

WAC 173-490-201 Petroleum liquid storage in external floating roof tanks. (1) Specific applicability.

(a) This section shall apply to all petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons), and as qualified in WAC 173-490-025.

(b) This section does not apply to petroleum liquid storage vessels that:

(i) Are used to store waxy, heavy pour crude oil;

(ii) Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer;

(iii) Contain a petroleum liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia);

(iv) Contain a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia); are of welded construction; and presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the director; or

(v) Are of welded construction, equipped with a metallic-type shoe primary seal and have secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal).

(2) Provisions for specific processes.

(a) No owner of a petroleum liquid storage vessel shall store a petroleum liquid in that vessel unless:

(i) The vessel has been fitted with:

(A) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(B) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under WAC 173-490-201 (2)(a)(i)(A) and approved by the director.

(ii) All seal closure devices meet the following requirements:

(A) There are no visible holes, tears, or other openings in the seal or seal fabric;

(B) The seal is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(C) For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall shall not exceed 21.2 cm² per meter of tank diameter (1.0 in.² per foot of tank diameter), as determined by the method in WAC 173-490-201(4).

(iii) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(A) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(B) Equipped with projections into the tank which remain below the liquid surface at all times.

(iv) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(v) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting; and

(vi) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least ninety percent of the area of the opening.

(b) The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this chapter shall:

(i) Perform routine inspections annually in order to insure compliance with WAC 173-490-201 (2)(a) and the inspection shall include a visual inspection of the secondary seal gap;

(ii) Measure the secondary seal gap annually in accordance with WAC 173-490-201(4) when the floating roof is equipped with a vapor-mounted primary seal; and

(iii) Maintain records of the types of volatile petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed in WAC 173-490-201 (2)(b)(i) and (ii).

(c) The owner or operator of a petroleum liquid storage vessel with an external floating roof exempted from this chapter by WAC 173-490-201 (1)(b)(iii), but containing a petroleum liquid with a true vapor pressure greater than 7.0 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all petroleum liquids with a true vapor pressure greater than 7.0 kPa.

(d) Copies of all records under WAC 173-490-201 (2)(b) and (c) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

(e) Copies of all records required under WAC 173-490-201 shall immediately be made available to the director, upon verbal or written request, at any reasonable time.

(3) Schedule of control dates.

(a) The owner or operator of a petroleum liquid storage vessel shall meet the increments of progress contained in the following schedule or an approved alternative schedule of control dates as stipulated in WAC 173-490-071.

(i) Submit final plans for the emission control system before March 1, 1981;

(ii) Award contracts for the emission control system before May 1, 1981;

(iii) Initiate on-site construction or installation of the emission control equipment before July 1, 1981;

(iv) Complete on-site construction or installation of the emission control equipment before November 1, 1981; and

(v) Achieve final compliance with subsection (2) of this section before January 1, 1982.

(b) The owner or operator of a source of VOC emissions subject to a schedule of control dates shall certify to the director within ten calendar days after the deadline for each increment of progress, whether the required increment of progress has been met.

(4) Testing and monitoring.

(a) The owner or operator of a storage vessel covered under WAC 173-490-201 shall demonstrate compliance by the methods of this subsection or an alternative method approved by the director.

(b) A person proposing to measure the seal fit of a storage vessel in order to comply with this section shall notify the director of the intent to measure not less than five working days before the measurement so the director may at his option observe the measurement.

(c) Compliance with WAC 173-490-201 (2)(a)(ii)(C) shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm (1/8 in.) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and the tank wall and summing the area of the individual gaps.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-201, filed 8/20/80.]

WAC 173-490-202 Leaks from gasoline transport tanks and vapor collection systems. (1) Specific applicability.

This section shall apply to all gasoline transport tanks equipped for gasoline vapor collection and all vapor collection systems at gasoline loading terminals, bulk gasoline plants and gasoline dispensing facilities as qualified in WAC 173-490-025 and 173-490-040.

(2) Provisions for specific processes.

(a) The owner or operator of a gasoline loading or unloading facility shall only allow the transfer of gasoline between the facility and a transport tank when a current leak test certification for the transport tank is on file with the facility or a valid inspection sticker is displayed on the vehicle.

(b) The owner or operator of a transport tank shall not make any connection to the tank for the purpose of loading or unloading gasoline, except in the case of an emergency, unless the gasoline transport tank:

(i) Is tested annually according to the test procedure referenced in WAC 173-490-202 (4)(c);

(ii) Sustains a pressure change of no more than 0.75 kilopascals (3 inches of water) in five minutes when pressurized to a gauge pressure of 4.5 kilopascals (18 inches of water) or evacuated to a gauge pressure of 1.5 kilopascals (6 inches of water) during the testing required in WAC 173-490-202 (2)(b)(i);

(iii) Is repaired by the owner or operator and retested within fifteen days of testing if it does not meet the criteria of WAC 173-490-202 (2)(b)(ii);

(c) The owner or operator of a transport tank shall:

(i) Have on file with each gasoline loading or unloading facility at which gasoline is transferred a current leak test certification for the transport tank; or

(ii) Display a sticker near the department of transportation certification plate required by 49 CFR 178.340-10b which:

(A) Shows the date that the gasoline tank truck last passed the test required in WAC 173-490-202 (2)(b)(i) and (ii);

(B) Shows the identification number of the gasoline tank truck; and

(C) Expires not more than one year from the date of the leak tight test.

(d) The owner or operator of a vapor collection system shall:

(i) Operate the vapor collection system and the gasoline loading equipment during all loadings and unloadings of transport tanks equipped for emission control such that:

(A) A gauge reading of tank pressure will not exceed 4.5 kilopascals (18 inches of water) or vacuum 1.5 kilopascals (6 inches of water);

(B) The concentration of gasoline vapors is below the lower explosive limit (LEL, measured as propane) at all points a distance of 2.5 cm (1 inch) from potential leak sources when measured by the method in WAC 173-490-202(4); and

(C) There are no visible liquid leaks.

(ii) Repair and retest a vapor collection system that exceeds the limits of WAC 173-490-202 (2)(d)(i) within fifteen days.

(e) The department may, at any time, monitor a gasoline transport tank and vapor collection system during loading or unloading operations by the procedure in WAC 173-490-202 (4)(d) to confirm continuing compliance with WAC 173-490-202 (2)(b) or (d).

(3) Schedule of control dates.

(a) The owner or operator of a gasoline transport tank shall meet the increments of progress contained in the following schedule or an approved alternative schedule of control dates as stipulated in WAC 173-490-071;

(i) Submit plans to the department for operating and maintenance procedures to implement WAC 173-490-202 (2) and (4) before March 1, 1981;

(ii) Issue purchase orders or contracts for all needed test equipment before May 1, 1981;

(iii) Commence certification of vapor collection systems before January 1, 1982; and

(iv) Complete initial certification of all vapor collection systems before July 1, 1982.

(b) The owner or operator of a vapor collection system subject to this schedule of control dates shall certify to the department within ten calendar days after the deadline for each increment of progress, whether the required increment of progress has been met.

(4) Testing and monitoring.

(a) The owner or operator of a gasoline transport tank or vapor collection system shall, at his own expense, demonstrate compliance with WAC 173-490-202 (2)(a) and (b), respectively. All tests shall be made by, or under the direction of, a person qualified to perform the tests and approved by the department.

(b) The owner or operator of a gasoline transport tank shall notify the department in writing of the date and location of a certification test at least ten calendar days before the anticipated test date.

(c) Testing procedures to determine compliance with WAC 173-490-202 shall be consistent with the procedures on file with and approved by the department.

(d) Monitoring to confirm the continuing existence of leak tight conditions shall be consistent with the procedures on file with and approved by the department.

(5) Recordkeeping.

(a) The owner or operator of a gasoline transport tank or vapor collection system shall maintain records of all certification tests and repairs for at least two years after the test or repair is completed.

(b) The records of certification tests required by WAC 173-490-202 (5)(a) shall, as a minimum, contain:

(i) The transport tank identification number;

(ii) The initial test pressure and the time of the reading;

(iii) The final test pressure and the time of the reading;

(iv) The initial test vacuum and the time of the reading;

(v) The final test vacuum and the time of the reading;

(vi) At the top of each report page the company name, date and location of the tests on that page; and

(vii) Name and title of the person conducting the test.

(c) The owner or operator of a gasoline transport tank shall annually certify that the transport tank passed the required tests.

(d) Copies of all records required under WAC 173-490-202 shall immediately be made available to the department, upon written request, at any reasonable time.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-202, filed 8/20/80.]

WAC 173-490-203 Perchloroethylene dry cleaning systems. (1) Specific applicability. This section shall apply to all dry cleaning systems using perchloroethylene cleaning solvent and as qualified in WAC 173-490-203 (1)(a) and (b) and 173-490-025.

(a) The following dry cleaning systems are exempt from the requirements of WAC 173-490-203 (2)(a)(i) and (ii):

(i) Coin-operated systems;

(ii) Systems located in a facility with inadequate space to accommodate an adsorber;

(iii) Systems with an average monthly loss less than twenty-five gallons (2 tons per year); and

(iv) Systems with insufficient steam capacity to desorb adsorbers.

(b) An exemption for the conditions stated in WAC 173-490-203 (2)(a)(i) and (ii) may be granted by the director when sufficient evidence is submitted by the owner or operator of the dry cleaning system to justify the exemption.

(2) Provisions for specific processes.

(a) The owner or operator of a perchloroethylene dry cleaning facility subject to this chapter shall:

(i) Vent the entire dryer exhaust through a properly functioning carbon absorption system or equally effective control device;

(ii) Emit no more than 100 ppmv when determined in accordance with WAC 173-490-203 (4)(c)(i), of volatile organic compounds from the dryer control device before dilution;

(iii) Immediately repair all components found to be leaking liquid volatile organic compounds;

(iv) Cook or treat all diatomaceous earth filters so that the residue contains 25 kg or less of volatile organic compounds per 100 kg of wet waste material;

(v) Reduce the volatile organic compounds from all solvent stills to 60 kg or less per 100 kg of wet waste material;

(vi) Drain all filtration cartridges, in the filter housing or other enclosed container, for at least twenty-four hours before discarding the cartridges; and

(vii) When possible, dry all drained cartridges without emitting volatile organic compounds to the atmosphere.

(3) Schedule of control dates.

(a) The owner or operator of a perchloroethylene dry cleaning facility subject to WAC 173-490-203 (2)(a)(i) and (ii) shall meet the applicable increments of progress in the following schedule or a schedule approved under WAC 173-490-071.

(i) Award contracts, issue purchase orders, or otherwise order the emission control system and process equipment, before July 1, 1981;

(ii) Complete installation of the emission control and process equipment before July 1, 1982;

(iii) Achieve final compliance, determined in accordance with WAC 173-490-203(4) before July 1, 1982;

(iv) In the event that equipment cannot be delivered prior to May 1, 1982, and the owner or operator placed the order prior to July 1, 1981, the final compliance date shall be sixty days following delivery of the equipment.

(b) The owner or operator of a perchloroethylene dry cleaning facility subject to this chapter shall comply with the operational and maintenance provisions of WAC 173-490-203 (2)(a)(iii) through (vii) by July 1, 1981.

(4) Testing and monitoring.

(a) Compliance with WAC 173-490-203 (2)(a)(i), (vi), and (vii) shall be determined by means of visual inspection.

(b) Compliance with WAC 173-490-203 (2)(a)(iii) shall be determined by means of visual inspection of the following components:

(i) Hose connections, unions, couplings and valves;

(ii) Machine door gaskets and seatings;

(iii) Filter head gasket and seating;

(iv) Pumps;

(v) Base tanks and storage containers;

(vi) Water separators;

(vii) Filter sludge recovery;

(viii) Distillation unit;

(ix) Diverter valves;

(x) Saturated lint from lint basket; and

(xi) Cartridge filters.

(c) Compliance with WAC 173-490-203 (2)(a)(ii) shall be determined by:

(i) A test consistent with the procedures on file with and approved by the department; or

(ii) The proper installation, operation, and maintenance of equipment that has been demonstrated by the owner or operator to adequately meet the emission limits in WAC 173-490-203 (2)(a)(ii).

(d) Compliance with WAC 173-490-203 (2)(a)(iv) and (v) shall be determined by tests consistent with the procedures on file with and approved by the department.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-203, filed 7/27/82. Statutory Authority: RCW 70.94.331, 70.94.510, and 70.94.785. 81-03-003 (Order DE 80-54), § 173-490-203, filed 1/8/81. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-203, filed 8/20/80.]

WAC 173-490-204 Graphic arts systems. (1) Specific applicability.

(a) This section shall apply to all packaging rotogravure, publication rotogravure, specialty printing operations, and flexographic printing facilities that use more than 90 megagrams (100 tons) per year of volatile organic compounds as a component of ink, for the thinning of ink, cleaning of presses, press components and equipment; and are covered by WAC 173-490-025.

(b) Machines that have both coating units (apply a uniform layer of material across the entire width of a web) and printing units (forming words, designs, and pictures) shall be included under WAC 173-490-204 rather than WAC 173-490-040(6), Surface coaters.

(2) Provisions for specific processes.

(a) No owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing subject to this regulation and employing solvent containing ink may operate, cause, allow or permit the operation of the facility unless:

(i) The volatile fraction of ink, as it is applied to the substrate, contains twenty-five percent by volume or less of organic solvent and seventy-five percent by volume or more of water;

(ii) The ink as it is applied to the substrate, less water, contains sixty percent by volume or more nonvolatile material; or

(iii) The owner or operator installs and operates:

(A) A carbon adsorption system which reduces the volatile organic emissions from the capture system by at least ninety percent by weight;

(B) An incineration system which oxidizes at least ninety percent of the nonmethane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water; or

(C) An alternative volatile organic compound emission reduction system demonstrated to have at least a ninety percent reduction efficiency, measured across the control system, and has been approved by the department.

(b) A collection system shall be used with the emission controls of WAC 173-490-204 (2)(a)(iii). The design and operation of the collection system shall be consistent with good engineering practice, and shall provide an overall reduction in the emission of volatile organic compounds of at least:

(i) Seventy-five percent where a publication rotogravure process is used; or

(ii) Sixty-five percent where a packaging rotogravure process is used; or

(iii) Sixty percent where a flexographic process is used.

(3) Schedule of control dates.

(a) The owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing facility subject to this chapter shall meet the applicable increments of progress in the following schedules or an approved alternative schedule of control dates as stipulated in WAC 173-490-071:

(i) For process equipment changes and add-on control devices, including incineration with heat recovery:

(A) Submit final plans for the emission control system or process equipment, or both, before April 1, 1981;

(B) Award contracts or purchase orders for the emission control system or process equipment, or both, before June 1, 1981;

(C) Initiate on-site construction or installation of the emission control or process equipment, or both, before December 1, 1981;

(D) Complete on-site construction or installation of the emission control or process equipment, or both, before December 1, 1982; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-204(4), before January 1, 1983.

(ii) For incineration equipment without heat recovery or process modifications not requiring purchase orders:

(A) Submit final plans for the emission control system or process modifications, or both, before March 1, 1981;

(B) Award contracts for process modifications or for incineration equipment, or both, before May 1, 1981;

(C) Initiate on-site construction or installation of process modifications or emission control equipment, or both, before July 1, 1981;

(D) Complete on-site construction or installation of process modifications or incineration equipment, or both, before November 1, 1981; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-204(4) before January 1, 1982.

(iii) For low solvent technology:

(A) Submit a plan for an extended schedule of control dates meeting the conditions in WAC 173-490-071;

(B) Achieve a final reduction in emissions greater than that which would have been attained from the controls specified in WAC 173-490-204(2);

(C) Commit to the installation of the controls in WAC 173-490-204(2) and achieving final compliance by January 1, 1987 should progress toward low solvent technology not meet expectations;

(D) Provide for a major reduction in emissions by January 1, 1983 as an increment of progress as required in WAC 173-490-071.

(b) The owner or operator of a volatile organic compound source subject to a compliance schedule of WAC 173-490-204 shall certify to the department within five days after the deadline for each increment of progress whether the required increment of progress has been met.

(4) Testing and monitoring.

(a) Testing procedures to determine compliance with this chapter shall be on file with and approved by the department.

(b) When add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(i) Exhaust gas temperature of all incinerators;

(ii) Temperature rise across a catalytic incinerator bed;

(iii) Breakthrough of VOC on a carbon adsorption unit; and

(iv) Any other continuous monitoring or recording device required by the department.

(c) The owner or operator of a facility shall be responsible for all expense of monitoring required by WAC 173-490-204 (4)(b).

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-204, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-204, filed 8/20/80.]

WAC 173-490-205 Surface coating of miscellaneous metal parts and products. (1) Specific applicability. This section shall apply to surface coating of miscellaneous metal parts and products in the following industries having VOC emissions greater than one hundred six kilograms (two hundred thirty-five pounds) per day and as qualified in WAC 173-490-205 (1)(b), (c), and (d), and 173-490-025.

(a) Miscellaneous metal parts and products shall include:

(i) Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);

(ii) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

(iii) Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

(iv) Commercial machinery (office equipment, computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

(v) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(vi) Fabricated metal products (metal covered doors, frames, etc.); and

(vii) Any other industrial category which coats metal parts or products under the Standard Industrial Classification Code of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries).

(b) This chapter is not applicable to the surface coating of the following metal parts and products:

(i) Automobiles and light-duty trucks;

(ii) Metal cans;

(iii) Flat metal sheets and strips in the form of rolls or coils;

(iv) Magnet wire for use in electrical machinery;

(v) Metal furniture;

(vi) Large appliances;

(vii) Airplanes;

(viii) Automobile refinishing;

(ix) Customized top coating of automobiles and trucks, if production is less than thirty-five vehicles per day; and

(x) Exterior of marine vessels.

(c) This chapter applies to the application area, flashoff area, air and forced air drier, and oven used in the surface coating of the metal parts and products in WAC 173-490-205 (1)(a). This chapter also applies to prime coat, top coat, and single coat operations.

(d) The application of coatings whose formulations are controlled by federal specifications and the use of which is required by federal agencies shall be exempt from the emission limits in WAC 173-490-205 (2)(a).

(e) A case-by-case determination of the emission controls best representing RACT may be substituted for the requirements of WAC 173-490-205(2). Such a determination shall be approved by the department.

(2) Provisions for specific processes.

(a) The owner or operator of a coating application system shall not emit a quantity of volatile organic compounds greater than those listed by specific coating, excluding water and as delivered to the application system:

(i) Clear coatings 0.52 kg/liter (4.3 lb/gallon)

(ii) Extreme performance coatings 0.42 kg/liter (3.5 lb/gallon)

(iii) Air dried coatings 0.42 kg/liter (3.5 lb/gallon)

(iv) All others 0.36 kg/liter (3.0 lb/gallon)

(v) Powder coatings 0.05 kg/liter (0.4 lb/gallon)

(b) When more than one emission limitation listed in WAC 173-490-205 (2)(a) applies to a specific coating, the least stringent will apply.

(c) All VOC emissions from solvent washings shall be considered in the emission limitations in WAC 173-

490-205 (2)(a), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

(d) The emission limits set forth in WAC 173-490-205 (2)(a) shall be achieved by:

(i) The application of low solvent coating technology; or

(ii) An incineration system that oxidizes at least ninety percent of the volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water; or

(iii) An equivalent means of VOC reduction certified by the owner or operator and approved by the department.

(e) A collection system shall be used together with the incinerator of WAC 173-490-205 (2)(d)(ii). The design and operation of the collection system shall be consistent with good engineering practice and provide for an overall VOC emission reduction necessary to comply with the emission limits of WAC 173-490-205 (2)(a). The required VOC emission reduction shall be calculated on a unit volume of uncured solids basis.

(3) Schedule of control dates.

(a) The owner or operator of a source shall meet the following applicable increments of progress, unless a source has an approved alternative schedule of control dates as stipulated in WAC 173-490-071.

(i) Sources using low solvent content coatings shall:

(A) Submit final plans for the application of low solvent technology before April 1, 1981;

(B) Complete evaluation of product quality and commercial acceptance before October 1, 1981;

(C) Issue purchase orders or contracts for low solvent content coatings before December 1, 1981;

(D) Initiate process modifications before January 1, 1982; and

(E) Complete process modifications and begin use of low solvent content coatings before January 1, 1983.

(ii) Sources using process equipment changes or add-on control devices, including incineration with heat recovery, shall:

(A) Submit final plans for the emission control system, or process equipment, or both, before April 1, 1981;

(B) Award contracts or purchase orders for the emission control systems, or process equipment, or both, before June 1, 1981;

(C) Initiate on-site construction or installation of the emission control system, or process equipment, or both, before December 1, 1981;

(D) Complete on-site construction or installation of the emission control system or process equipment, or both, before December 1, 1982; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-205(4) before January 1, 1983.

(iii) Sources using incineration without heat recovery or process modifications not requiring purchase orders shall:

(A) Submit final plans for the emission control system or process modification, or both, before March 1, 1981;

(B) Award contracts or purchase orders for the emission control system or process modification, or both, before May 1, 1981;

(C) Initiate on-site construction or installation of the emission control system or process modification, or both, before July 1, 1981;

(D) Complete on-site construction or installation of the emission control system or process modification, or both, before November 1, 1981; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-205(4), before January 1, 1982.

(4) Testing and monitoring.

(a) The department may require the owner or operator of a source to demonstrate at his own expense, compliance by the methods of WAC 173-490-205 (4)(c).

(b) The owner or operator of a source shall notify the department at least ten days before a proposed emission certification test so the director may at his option observe the test.

(c) Testing and calibration procedures to determine compliance with this chapter shall be consistent with the procedures on file with and approved by the department.

(d) The department may require monitoring of the following parameters:

(i) Exhaust gas temperature of all incinerators;

(ii) Temperature rise across a catalytic incinerator bed; and

(iii) Breakthrough of VOC on a carbon adsorption unit.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-205, filed 7/27/82. Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-205, filed 8/20/80.]

WAC 173-490-207 Surface coating of flatwood paneling. (1) Specific applicability.

(a) This section shall apply to all flatwood panel manufacturers and surface finishing facilities as qualified in WAC 173-490-207 (1)(b) and (c) and 173-490-025.

(b) These chapters shall apply to all operations and equipment that is used to apply, convey and dry (including flashoff areas) a surface pattern or coating on the following products:

(i) Printed interior panels made of hardwood plywood and thin particle board;

(ii) Natural finish hardwood plywood panels; or

(iii) Hardboard paneling with Class II finishes.

(c) These chapters do not apply to the manufacture of exterior siding, tileboard, or particleboard used as a furniture component.

(2) Provisions for specific processes.

(a) The owner or operator of a facility shall not emit volatile organic compounds from a coating application system in excess of:

(i) 2.9 kg per 100 square meters of coated finished product (6.0 lb/1,000 square feet) from printed interior panels, regardless of the number of coats applied;

(ii) 5.8 kg per 100 square meters of coated finished product (12.0 lb/1,000 square feet) from natural finish

hardwood plywood panels, regardless of the number of coats applied; and

(iii) 4.8 kg per 100 square meters of coated finished product (10.0 lb/1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.

(b) The emission limits in WAC 173-490-207 (2)(a) shall be achieved by:

(i) The application of low solvent content coating technology; or

(ii) An incineration system which oxidizes at least ninety percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or

(iii) An equivalent means of VOC removal. The equivalent means must be certified by the owner or operator and approved by the department.

(c) A capture system shall be used in conjunction with the emission control systems in WAC 173-490-207 (2)(b)(ii) and (iii). The design and operation of the capture system must be consistent with good engineering practice and shall be required to provide for an overall emission reduction sufficient to meet the emission limitation in WAC 173-490-207 (2)(a).

(3) Schedule of control dates.

(a) The owner or operator of a source shall meet the following applicable increments of progress, unless a source has an approved alternative schedule of control dates as stipulated in WAC 173-490-071.

(i) Sources using low solvent content coatings shall:

(A) Submit final plans for the application of low solvent technology before April 1, 1981;

(B) Complete evaluation of product quality and commercial acceptance before October 1, 1981;

(C) Issue purchase orders or contracts for low solvent content coatings before December 1, 1981;

(D) Initiate process modifications before January 1, 1982; and

(E) Complete process modifications and begin use of low solvent content coatings before January 1, 1983.

(ii) Sources utilizing process equipment changes or add-on control devices, including incineration with heat recovery, to comply with the emission limitations in WAC 173-490-207 (2)(a) shall:

(A) Submit final plans for the emission control system, or process equipment, or both, before April 1, 1981;

(B) Award contracts or purchase orders for the emission control systems, or process equipment, or both, before June 1, 1981;

(C) Initiate on-site construction or installation of the emission control system, or process equipment, or both, before December 1, 1981;

(D) Complete on-site construction or installation of the emission control system or process equipment, or both, before December 1, 1982; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-207(4) before January 1, 1983.

(iii) Sources utilizing incineration without heat recovery or process modifications not requiring purchase orders to comply with the emission limitation in WAC 173-490-207 (2)(a) shall:

(A) Submit final plans for the emission control system or process modification, or both, before March 1, 1981;

(B) Award contracts or purchase orders for the emission control system or process modification, or both, before May 1, 1981;

(C) Initiate on-site construction or installation of the emission control system or process modification, or both, before July 1, 1981;

(D) Complete on-site construction or installation of the emission control system or process modification, or both, before November 1, 1981; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-207(4), before January 1, 1982.

(4) Testing and monitoring.

(a) The department may require the owner or operator of a facility to demonstrate at his own expense compliance by the methods of WAC 173-490-207 (4)(c).

(b) The owner or operator of a facility shall notify the department at least ten days before a proposed emission certification test so the department may at his option observe the test.

(c) Testing and calibration procedures to determine compliance with this chapter shall be consistent with the procedure on file with and approved by the department.

(d) The department may require monitoring of the following parameters:

(i) Exhaust gas temperature of all incinerators;

(ii) Temperature rise across a catalytic incinerator bed; and

(iii) Breakthrough of VOC on a carbon adsorption unit.

[Statutory Authority: RCW 70.94.331 and 70.94.395. 80-11-062 (Order DE 80-18), § 173-490-207, filed 8/20/80.]

WAC 173-490-208 Aerospace assembly and component coating operations. (1) Specific applicability. This section shall apply to all aerospace component coating facilities that emit an annual average of eighteen kilograms (forty pounds) or more of volatile organic compounds per operating day and as qualified in WAC 173-490-025.

(2) It shall be unlawful for any person to cause or allow:

(a) The application of any primer or topcoat to aerospace components which contains in excess of:

(i) 650 grams of VOC per liter of primer, less water, as applied.

(ii) 600 grams of VOC per liter of topcoat, less water, as applied.

(b) The application of any temporary protective coating to aerospace components that contains more than 250 grams of VOC per liter of material, less water, as applied.

(c) The use of volatile organic compounds of composite vapor pressure of 10.4 kPa (1.5 psia) or greater at a

temperature of 21.1°C (70°F) for surface preparation or cleanup, excluding paint removal.

(d) The use of volatile organic compounds for the cleanup of spray equipment used in aerospace component coating operations unless 85 percent of the volatile organic compounds by weight, are collected and disposed such that they are not emitted to the atmosphere.

(e) The use of a stripper which contains more than 400 grams of VOC per liter or has a composite vapor pressure of volatile organic compounds more than 1.3 kPa (0.19 psia) at 21.1°C (70°F).

(3) The emission limits of paragraph (2) shall be achieved by:

(a) The application of reasonably available low solvent coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent method of VOC reduction certified by the owner or operator and approved by the director.

(4) The provisions of WAC 173-490-208 (2)(a) and (2)(b) shall not apply to the following materials:

(a) Coatings for masking in chemical etching operations,

(b) Adhesive bonding primer,

(c) Flight test coatings,

(d) Space vehicle coatings, or

(e) Fuel tank coatings.

(5) Upon the submission of an alternative coating evaluation, the director may determine that a reasonably available low solvent coating does exist for a given application and may exempt the coating from requirements of WAC 173-490-208. All alternative coating evaluations shall contain, as a minimum:

(a) Types of products to be coated,

(b) Types of coatings evaluated,

(c) Results of performance tests,

(d) Status of research into development of low VOC coatings for the application,

(e) Feasibility of installing control equipment,

(f) Mitigating measures that could be implemented to reduce VOC emissions.

(6) Any facility subject to this section shall submit a report to the department by January 1, 1983. This report shall include, as a minimum, a discussion of the advances in coating technology that have occurred since January 1, 1980, and a forecast of future technology improvements.

(7) Schedule of control dates.

(a) The owner or operator of a source shall meet the following applicable increments of progress.

(i) Submit final plans for the emission control system, process equipment or low solvent coatings substitution before September 1, 1982.

(ii) Award contracts or purchase orders for the emission control system, process equipment or low solvent coatings before January 1, 1983.

(iii) Initiate construction or process modifications before March 1, 1983.

(iv) Achieve final compliance before July 1, 1983.

[Statutory Authority: Chapters 70.94 and 43.21A RCW. 82-16-021 (Order DE 82-22), § 173-490-208, filed 7/27/82.]

Chapter 173-495 WAC
WEATHER MODIFICATION

WAC

173-495-010	Purpose.
173-495-020	Definitions.
173-495-030	Requirement for licenses and permits.
173-495-040	Exempt activities—Requirements of those exempted.
173-495-045	Qualifications for license—Regular.
173-495-050	Qualifications for license—Restricted license.
173-495-060	Procedures for issuing license.
173-495-065	Period of license.
173-495-070	Permits requirements.
173-495-080	Permittee's report of operations—Requirement.
173-495-100	Revocation, suspension, modification.
173-495-120	Proof of financial responsibility.

WAC 173-495-010 Purpose. The department of ecology, under the authority vested in it by chapter 43.37 RCW, is charged with responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control. This regulation provides the basic framework for carrying out the state's responsibility for such a program through the establishment of license and permit requirements and procedures, report requirements, and fee requirements. The provisions of this chapter shall apply to all weather modification activities in all parts of the state except as specifically exempted in this chapter on in chapter 43.37 RCW.

[Order DE 77-29, § 173-495-010, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-020 Definitions. As used in these regulations unless the context requires otherwise:

- (1) "Department" means the department of ecology.
- (2) "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; or in the case of the performance of weather modification and control activities, individually or jointly, by a person or persons to be benefited and not undertaken pursuant to a contract, operation means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area and one continuing time interval not exceeding one year.
- (3) "Research and development" means theoretical analysis, exploration and experimentation, and the extension of investigative findings of theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processing.
- (4) "Weather modification and control" means changing or controlling, or attempting to change or control by artificial methods the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

(1989 Ed.)

[Order DE 77-29, § 173-495-020, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-030 Requirement for licenses and permits. No person shall engage in weather modification activities except under and in accordance with a license and a permit issued by the department, unless specifically exempt from this requirement in WAC 173-495-050.

[Order DE 77-29, § 173-495-030, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-040 Exempt activities—Requirements of those exempted. The following weather modification and control activity shall be exempt from the license requirement of RCW 43.37.100, the permit requirements of RCW 43.37.100, and the liability requirements of RCW 43.37.190:

- (1) All research and experiments related to weather modification control conducted within laboratories.
- (2) Those weather modification operations designed to alleviate sudden, unexpected, hazardous conditions which require expeditious localized action for:
 - (a) Protection against fire
 - (b) Prevention of frost
 - (c) Dispersal of fog
- (3) Field research and development by institutions of higher learning.
- (4) Any person proposing to conduct weather modification and control activities as described in subsection (2) above shall make every reasonable effort prior thereto to notify the department of ecology, headquarters offices in Olympia, Washington, of the type of activity to be carried out, the person carrying out the activity and the materials and technique of application to be used.
- (5) Any person proposing to conduct weather modification and control activities as described in subsection (3) above shall provide a written description of the proposed program, notice of actual operations ten days prior to commencement, and quarterly reports of operations and status to the headquarters office department of ecology, Olympia, Washington

[Order DE 77-29, § 173-495-040, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-045 Qualifications for license—Regular. All applicants for a weather modification license shall be certified professional members of the American Meteorological Society or possess the academic achievements and professional experience necessary to receive such certification. In cases where the applicant is an organization, the individual or individuals who will be in control and in charge of the weather modification and control activities shall be required to meet the above standard.

[Order DE 77-29, § 173-495-045, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-050 Qualifications for license—Restricted license. (1) A restricted license may be issued to an applicant for such license when:

[Title 173 WAC—p 611]

(a) The applicant's proposed weather modification activities are limited solely to those designed to disperse fog over airports; and

(b) The applicant will be fully advised of the pertinent weather information by the meteorologist on duty during the carrying out of the airport fog dispersal.

(2) Applicants for restricted licenses are not required to meet the qualifications otherwise imposed by WAC 173-495-040.

[Order DE 77-29, § 173-495-050, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-060 Procedures for issuing license.

(1) Any person or organization desiring to obtain a license or restricted license shall make an application to the department of ecology on the form prescribed, listing name, business address, etc.

(2) The department may require additional information of the applicant to determine competency in the field of meteorology. Such additional information shall be requested of the applicant by certified mail, and shall be submitted in writing.

(3) Prior to the issuance of any license, the applicant shall pay a fee of \$100 to the state of Washington.

(4) The application shall be deemed received by the department of ecology when received at the Headquarters Offices, Department of Ecology, Olympia, Washington, 98504.

[Order DE 77-29, § 173-495-060, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-065 Period of license. (1) Licenses issued pursuant to chapter 43.37 RCW and these regulations shall be effective for a period of one year, to terminate at the end of the calendar year of issuance.

(2) No later than thirty days prior to the end of the calendar year, the licensee may request a renewal of the license. The department shall review said license upon the payment of a renewal fee of \$100 to the state of Washington.

(3) In the determination of whether or not to grant such renewal request, the department shall consider, and the applicant shall provide, information as to whether the facts and circumstances relied on in the issuance of the original permit have changed or altered. If the department determines that the licensee no longer meets the requirements of competency in the field of meteorology, the department may refuse to renew said license.

[Order DE 77-29, § 173-495-065, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-070 Permits requirements. (1) Each weather modification operation not specifically exempted by statute or these regulations shall require a permit. A separate permit shall be issued for each operation.

(2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to the department of ecology.

(3) The permit applicant must hold a valid weather modification license from the state of Washington.

[Title 173 WAC—p 612]

(4) The applicant shall publish notice of intention at least once a week for three consecutive weeks in a legal newspaper having general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county.

(5) Proof of publication of the notice of intention, made in the manner provided herein, shall be filed by the licensee with the department within fifteen days from the date of last publication of the notice.

(6) The notice of intention shall contain at least the following:

(a) The name and address of the licensee;

(b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;

(c) The area in which and the appropriate time during which the operation will be conducted;

(d) The area which is intended to be affected by the operation;

(e) The materials and methods to be used in conducting the operation.

(7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.

(8) The applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by the department from evidence available to it.

(9) Prior to issuance of a permit the department shall make a determination in writing that the weather modification and control activities proposed to be conducted under authority of the permit have been determined to be for the general welfare and public good.

(10) The department shall hold an open public hearing at its headquarters office in Olympia prior to any such permit issuance.

[Order DE 77-29, § 173-495-070, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-080 Permittee's report of operations—Requirement. The permittee shall be required to maintain reports on all operations on a daily basis, and submit twice a month (1st day and 15th day) to the department of ecology. The semi-monthly reports shall include the following information:

(1) Number of days under contract.

(2) Number of days of operation and number of hours of each day, for all stations operated.

(3) The consumption rate and name of seeding agent used.

(4) A brief summary statement evaluating the past fifteen day period in regard to the seeding potential and experience.

(5) Location of operations.

(6) Name and mailing address of each individual, other than the licensee, participating or assisting in the operation.

(7) A brief statement of projected plans for the coming fifteen day period.

(8) In the event operations are unexpectedly terminated, a special report covering that fraction of the half-month period of operation is required. All reports must be post-marked not later than one day after due date.

(9) All such records are public records which shall be open to public inspection.

[Order DE 77-29, § 173-495-080, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-100 Revocation, suspension, modification. (1) All permits authorized by RCW 43.37.110 shall contain the following provisions: "The department may, if it appears that continuing operation under this permit will cause immediate injury to persons or property, terminate or otherwise modify the terms of this permit in order to alleviate an emergency situation by giving notice to the permittee by telegram or other writing."

(2) All permits authorized by RCW 43.37.110 may be revoked, suspended, or modified when the department has reason to believe that good cause exists and that the revocation, suspension, or modification is required for the general welfare and public good. Any such revocation, suspension, or modification shall not be undertaken prior to written notice by certified mail to the permittee. Opportunity for comment by the permittee shall be allowed. Any final departmental decision shall be in writing.

(3) In the event the applicant desires to appeal any permit revocation, modification, or suspension action by the department such appeal must be filed with the pollution control hearings board in Olympia within thirty days of the department's action. An appeal does not constitute a stay.

[Order DE 77-29, § 173-495-100, filed 12/29/77. Formerly chapter 508-20 WAC.]

WAC 173-495-120 Proof of financial responsibility. A permit applicant shall furnish proof of financial responsibility to the department of ecology by one of the following:

(1) Copy of insurance policy or binder for the operator.

(2) A current balance sheet showing sufficient assets to demonstrate financial responsibility.

(3) Bond for safe performance.

(4) Such other information as the applicant may provide the department, in writing, if one of the alternate methods (1) - (3), above, is not feasible or available, provided the applicant explains the infeasibility or unavailability.

[Order DE 77-29, § 173-495-120, filed 12/29/77.]

(1989 Ed.)

Chapter 173-500 WAC

WATER RESOURCES MANAGEMENT PROGRAM ESTABLISHED PURSUANT TO THE WATER RESOURCES ACT OF 1971

WAC

173-500-010	Background.
173-500-020	Purpose.
173-500-030	Authority.
173-500-040	Water resource inventory areas.
173-500-050	Definitions.
173-500-060	General provisions.
173-500-070	Regulation review.
173-500-990	Map—Water resources inventory areas sub-basins.

WAC 173-500-010 Background. (1) The Water Resources Act of 1971 (chapter 90.54 RCW) sets forth fundamentals of water resource policy to insure that the waters of the state will be protected and fully utilized for the greatest benefit to the people of the state of Washington and, in relation thereto, to provide direction to the department of ecology and other state agencies and officials in carrying out water and related resource programs.

(2) The department was directed, through the adoption of appropriate rules, to develop and implement a comprehensive state water program which would provide a process for making decisions on future water resource allocations and uses.

(3) The act provides that the department of ecology may develop a water program in regional segments so that immediate attention may be given to waters of a give physio-economic region of the state or to specific critical problems of water allocation and use.

(4) The act further directed the department of ecology to modify existing regulations and adopt new regulations to insure that existing regulatory programs are in accord with the water resource policies of the act.

[Statutory Authority: Chapters 43.27A and 90.54 RCW. 88-13-037 (Order 88-11), § 173-500-010, filed 6/9/88; Order DE 75-23, § 173-500-010, filed 1/6/76.]

WAC 173-500-020 Purpose. The purpose of this chapter is to set forth a program which will provide guidelines to facilitate the further development of the water resources to the extent of their availability for further appropriation and implement the legislative intent as contained in RCW 90.54.040(1). The program shall, where appropriate:

(1) Identify and foster development of water resource projects;

(2) Declare preferences or priorities of use by categories;

(3) Set forth streams closed to future appropriation;

(4) Establish flows on perennial streams of the state in amounts necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values;

(5) Allocate quantities for beneficial uses;

(6) Reserve water for future beneficial use;

(7) Withdraw waters from additional appropriation when sufficient information or data are lacking for the making of sound decisions;

[Title 173 WAC—p 613]

- (8) Establish criteria for limit beyond which further appropriation will not be made;
- (9) Designate areas within the state to be used for management purposes; and
- (10) Be guided by the declaration of fundamentals contained in RCW 90.54.020.

[Order DE 75-23, § 173-500-020, filed 1/6/76.]

WAC 173-500-030 Authority. This regulation is promulgated by the department of ecology under the authority of chapter 90.54 RCW.

[Statutory Authority: Chapters 43.27A and 90.54 RCW. 88-13-037 (Order 88-11), § 173-500-030, filed 6/9/88; Order DE 75-23, § 173-500-030, filed 1/6/76.]

WAC 173-500-040 Water resource inventory areas. For the purposes of this chapter, the state is divided into 62 areas known as water resource inventory areas (WRIAs). The names and numbers of these areas are as follows and are shown on the attached map:

WATER RESOURCES INVENTORY AREAS

WRIA Number, Name

01. Nooksack
02. San Juan
03. Lower Skagit-Samish
04. Upper Skagit
05. Stillaguamish
06. Island
07. Snohomish
08. Cedar-Sammamish
09. Duwamish-Green
10. Puyallup-White
11. Nisqually
12. Chambers-Clover
13. Deschutes
14. Kennedy-Goldsborough
15. Kitsap
16. Skokomish-Dosewallips
17. Quilcene-Snow
18. Elwah-Dungeness
19. Lyre-Hoko
20. Soleduck-Hoh
21. Queets-Quinault
22. Lower Chehalis
23. Upper Chehalis
24. Willapa
25. Grays-Elokoman
26. Cowlitz
27. Lewis
28. Salmon-Washougal
29. Wind-White Salmon
30. Klickitat
31. Rock-Glade
32. Walla Walla
33. Lower Snake
34. Palouse
35. Middle Snake
36. Esquatzel Coulee
37. Lower Yakima

WRIA Number, Name

38. Naches
39. Upper Yakima
40. Alkali-Squilchuck
41. Lower Crab
42. Grand Coulee
43. Upper Crab-Wilson
44. Moses Coulee
45. Wenatchee
46. Entiat
47. Chelan
48. Methow
49. Okanogan
50. Foster
51. Nespelem
52. Sanpoil
53. Lower Lake Roosevelt
54. Lower Spokane
55. Little Spokane
56. Hangman
57. Middle Spokane
58. Middle Lake Roosevelt
59. Colville
60. Kettle
61. Upper Lake Roosevelt
62. Pend Oreille

[Order DE 75-23, § 173-500-040, filed 1/6/76.]

WAC 173-500-050 Definitions. For purposes of this chapter and subsequent regulations formulated for planning and management within individual water resource inventory areas, the following definitions shall be used:

(1) "ALLOCATION" means the designating of specific amounts of the water resource for specific beneficial uses.

(2) "APPROPRIATION" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses.

(3) "BASE FLOW" means a level of streamflow established in accordance with provisions of chapter 90.54 RCW required in perennial streams to preserve wildlife, fish, scenic, aesthetic, and other environmental and navigational values.

(4) "BENEFICIAL USES" are uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(5) "CONSUMPTIVE USE" means use of water whereby there is a diminishment of the water source.

(6) "DEPARTMENT" means the Washington state department of ecology.

(7) "HYDROGRAPH" is a graph showing the variations of streamflow (or stream discharge) with respect to time during a year as determined at a specific cross-sectional location on the stream.

(8) "LOW FLOW" means those flow level limitations appearing as provisions on permits and certificates issued by the department, or its predecessors, prior to the effective dates of chapters 173-501 through 173-599 WAC.

(9) "NONCONSUMPTIVE USE" is a type of water use where either there is no diversion from a source body, or where there is no diminishment of the source.

(10) "PERENNIAL STREAM" means a stream the natural flow of which is normally continuous at any given location.

(11) "STREAM MANAGEMENT UNIT" means stream segments, reaches, or tributaries, each containing a control station, that are identified on stream reach maps in adopted water resource management program documents as units for defining base flow levels.

(12) "WATER RIGHT" means a right to make beneficial use of public waters of the state.

[Order DE 75-23, § 173-500-050, filed 1/6/76.]

WAC 173-500-060 General provisions. (1) The provisions of this chapter shall apply to chapters 173-501 through 173-599 WAC unless the language of said chapters is clearly to the contrary.

(2) As sufficient data are obtained for each WRIA and/or grouping thereof in the state to enable the department to formulate a water resource planning and management program for such area, the department shall by regulation establish policies for the beneficial use of public waters pursuant to RCW 90.54.040.

(3) Water rights established prior to the effective date of rules adopted under chapters 173-500 and 173-501 through 173-599 WAC shall not be affected by such rules.

(4) **LOW FLOW LIMITATIONS TO PREVAIL** (1) Notwithstanding the establishment of base flows established hereunder, existing low flow limitations shall remain in effect.

(5) **BASE FLOW PROVISIONS FOR WATER RIGHTS.**

(a) Surface water and/or ground water appropriation permits, issued subsequent to the effective dates of

chapters 173-501 through 173-599 WAC, that will allow either direct diversion from or have a measurable effect on streams where base flow limitations of this chapter, and any such permits or certificates shall be appropriately conditioned to assure maintenance of said base flows.

(b) The base flow provisions for any water right located in a stream management unit shall specifically describe the base flow levels for the control station in that unit and shall refer generally to other downstream base flow requirements that may also become controlling and critical to the use of water under such right.

(6) **BASE FLOW CHANGES.** If it becomes necessary to change a control station location or to add new control stations to improve management capability, the department shall develop streamflow relationships, by accepted engineering procedures, between previously established control station locations and the new location for use in regulating water rights that are subject to base flow limitations.

(7) **MINIMUM WATER FLOWS AND LEVELS.** The provisions of this chapter shall in no manner be interpreted to preclude utilization of chapter 90.22 RCW.

(8) **PRIORITIES OR ALLOCATION BY USE CATEGORIES - LIMITATIONS.** Nothing in chapters 173-501 through 173-599 WAC relating to priorities or allocations by use shall be construed to apply to water rights or the historic water use patterns that predate the individual management regulations.

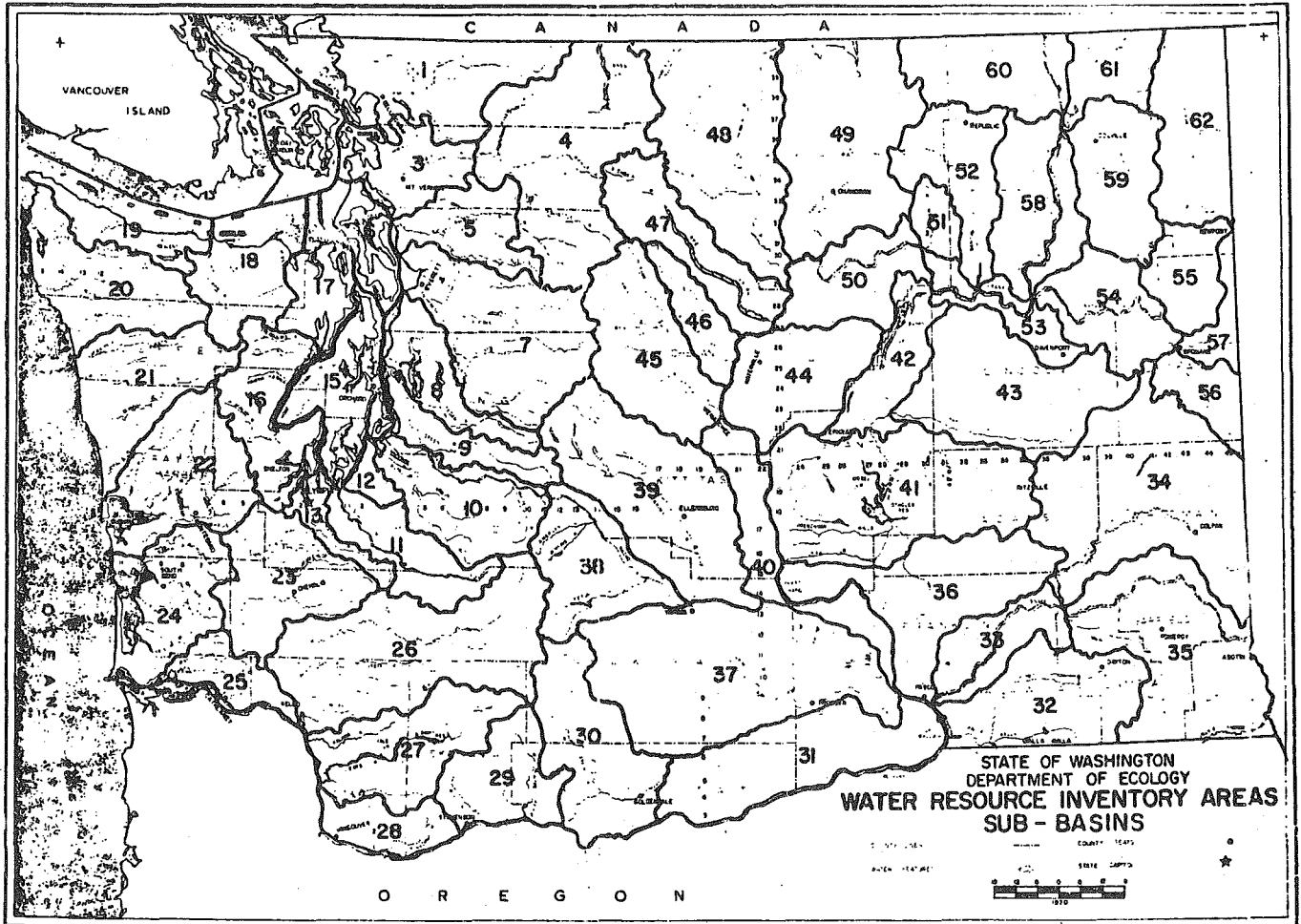
[Order DE 75-23, § 173-500-060, filed 1/6/76.]

WAC 173-500-070 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.27A and 90.54 RCW. 88-13-037 (Order 88-11), § 173-500-070, filed 6/9/88.]

WAC 173-500-990 Map--Water resources inventory areas sub-basins.

WATER RESOURCES INVENTORY AREAS SUB-BASINS.



[Order DE 75-23, Map (codified as WAC 173-500-990), filed 1/6/76.]

**Chapter 173-501 WAC
INSTREAM RESOURCES PROTECTION
PROGRAM--NOOKSACK WATER RESOURCE
INVENTORY AREA (WRIA) 1**

WAC

- 173-501-010 General provision.
- 173-501-020 Purpose.
- 173-501-030 Establishment of instream flows.
- 173-501-040 Surface water source limitations to further consumptive appropriation.
- 173-501-050 Lakes.
- 173-501-060 Ground water.
- 173-501-070 Exemptions.
- 173-501-080 Policy statement for future permitting actions.
- 173-501-090 Enforcement.
- 173-501-095 Appeals.
- 173-501-100 Regulation review.

WAC 173-501-010 General provision. These rules apply to waters within the Nooksack water resource inventory area (WRIA 1), as defined in WAC 173-500-

040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (Minimum water flows and levels), and in accordance with chapter 173-500 WAC (Water resources management program).

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-010, filed 12/4/85.]

WAC 173-501-020 Purpose. Chapter 90.54 RCW (Water Resources Act of 1971) requires that utilization and management of waters of the state be guided by a number of fundamentals, including:

Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial. (RCW 90.54.020(1))

The quality of the natural environment shall be protected and, where possible, enhanced as follows:

Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(a))

Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(b))

The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nooksack water resource inventory area with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values, as well as recreation and water quality.

In administering and enforcing this regulation, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-020, filed 12/4/85.]

WAC 173-501-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Anderson Creek Gage # WDOE-2109-00	1.4 Section 19 T. 39 N., R. 4 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Bells Creek Gage # WDOE-2073-00	0.5 Section 21 T. 39 N., R. 5 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Bertrand Creek Gage # WDOE-2124-00	1.0 Section 26 T. 40 N., R. 2 E.	From U.S./Canada border to confluence with Nooksack River, including all tributaries.
California Creek Gage # WDOE-2134-00	3.0 Section 21 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Canyon Creek Gage # WDOE-2045-00	0.2 Section 35 T. 40 N., R. 6 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Canyon Creek at Kulshan Gage # 12-2085-00	0.2 Section 27 T. 39 N., R. 5 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Cornell Creek Gage # WDOE-2057-00	0.6 Section 1 T. 39 N., R. 6 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Dakota Creek near Blaine Gage #12-2140-00	3.5 Section 9 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
Deer Creek Gage # WDOE-2130-50	0.2 Section 28 T. 39 N., R. 2 E.	From the confluence with Tenmile Creek to headwaters, including all tributaries.
Fishtrap Creek at Lynden Gage # 12-2120-00	6.9 Section 16 T. 40 N., R. 3 E.	From U.S./Canada border to confluence with Nooksack River, including all tributaries.
Gallop Creek Gage # WDOE-2056-00	0.3 Section 7 T. 39 N., R. 7 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Hutchinson Creek Gage # WDOE-2101-00	1.8 Section 36 T. 38 N., R. 5 E.	From confluence with South Fork Nooksack River to headwaters, including all tributaries.
Johnson Creek Gage # WDOE-2149-00	0.5 Section 35 T. 41 N., R. 4 E.	From U.S./Canada border to headwaters including all tributaries.
Kendall Creek Gage # 12-2065-00	0.1 Section 3 T. 39 N., R. 5 E.	From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Maple Creek Gage # WDOE-2059-00	0.8 Section 30 T. 40 N., R. 6 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Nooksack River (at Deming) 12-2105-00	36.6 Section 31 T. 39 N., R. 5 E.	From confluence with Smith Creek to confluence of North Fork and Middle Fork Nooksack Rivers.
Nooksack River (at Ferndale) 12-2131-00	5.8 Section 29 T. 39 N., R. 2 E.	From influence of mean annual high tide at low instream flow levels to confluence with, and including, Smith Creek.
Nooksack River (Middle Fork) 12-2080-00	5.0 Section 13 T. 38 N., R. 5 E.	From confluence with North Fork to headwaters.
Nooksack River (North Fork) 12-2070-00	44.1 Section 10 T. 39 N., R. 5 E.	From confluence with Middle Fork to headwaters.
Nooksack River (South Fork) 12-2090-00	5.0 Section 19 T. 38 N., R. 5 E.	From confluence with Nooksack River (mainstem) to headwaters.
Porter Creek Gage # WDOE-2084-00	0.7 Section 11 T. 38 N., R. 5 E.	From the confluence with M. Fk. Nooksack R. to headwaters, including all tributaries.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Stream Management Reach
Racehorse Creek Gage # WDOE-2071-00	1.5 Section 11 T. 39 N., R. 5 E.	From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.
Saar Creek Gage # 12-2155-00	0.2 Section 31 T. 41 N., R. 5 E.	From U.S./Canada border to headwaters, including all tributaries.
Silver Creek Gage # WDOE-2132-00	2.0 Section 4 T. 38 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Skookum Creek near Wickersham Gage # 12-2095-00	0.1 Section 27 T. 37 N., R. 5 E.	From confluence with South Fork Nooksack River to headwaters, including all tributaries.
Smith Creek Gage # WDOE-2111-00	0.8 Section 22 T. 39 N., R. 4 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Sumas River near Sumas Gage # 12-2145-00	2.1 Section 2 T. 41 N., R. 4 E.	From U.S./Canada border to headwaters including all tributaries.
Tenmile Creek at Laurel Gage # 12-2129-00	4.4 Section 13 T. 39 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.
Terrell Creek Gage # WDOE-2133-00	2.2 Section 31 T. 40 N., R. 1 E.	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
Wiser Lake Creek Gage # WDOE-2126-00	0.7 Section 2 T. 39 N., R. 2 E.	From confluence with Nooksack River to headwaters, including all tributaries.

(2) Instream flows are established for the stream management units in WAC 173-501-030(1) as follows:

Instream Flows in the Nooksack WRIA
(Instantaneous cubic feet per second)

Month	Day	WDOE-2109-00 Anderson Cr.	WDOE-2073-00 Bells Creek	WDOE-2124-00 Bertrand Cr.	WDOE-2134-00 California Cr.
Jan.	1	50	4*	90*	40*
	15	50	4*	90*	40*
Feb.	1	50	4*	90*	40*
	15	50	3*	90*	40*
Mar.	1	50	2*	90*	40*
	15	50	2*	90*	25*
Apr.	1	40	3*	80*	18*
	15	31	4*	60*	13*
May	1	25*	5*	50*	9*
	15	20*	6*	40*	6*
Jun.	1	16*	6*	33*	4*
	15	13*	6*	25*	3*
Jul.	1	10*	3*	21*	2*
	15	8*	2*	17*	2*
Aug.	1	6*	1*	13*	2*
	15	6*	1*	13*	2*
Sep.	1	6*	1*	13*	2*
	15	6*	1*	13*	2*
Oct.	1	8*	1*	13*	2*
	15	11*	2*	20*	2*
Nov.	1	15*	3*	30*	4*
	15	20	4*	40*	7*

Month	Day	WDOE-2109-00 Anderson Cr.	WDOE-2073-00 Bells Creek	WDOE-2124-00 Bertrand Cr.	WDOE-2134-00 California Cr.
Dec.	1	30	4*	60*	15*
	15	50	4*	90*	40*

*Denotes closure period. No further consumptive rights issued for use during this time.

Month	Day	WDOE-2045-00 Canyon Creek	WDOE-2085-00 Canyon (Lk) Cr.	WDOE-2057-00 Cornell Creek
Jan.	1	150	50	20
	15	150	50	20
Feb.	1	150	50	20
	15	150	50	20
Mar.	1	150	50	20
	15	150	50	20
Apr.	1	150	50	20
	15	150	50	20
May	1	150	50	20
	15	150	50	20
Jun.	1	150	50	15
	15	150	50	9
Jul.	1	150*	50*	5*
	15	80*	30*	3*
Aug.	1	40*	15*	3*
	15	40*	10*	3*
Sep.	1	40*	10*	3*
	15	40*	10*	3*
Oct.	1	55*	20*	5*
	15	80*	23*	10*
Nov.	1	90*	27*	20*
	15	110	32	20
Dec.	1	130	40	20
	15	150	43	20

Month	Day	12-2140-00 Dakota Creek	WDOE-2130-50 Deer Creek	12-2120-00 Fishtrap Cr.
Jan.	1	60*	10*	55*
	15	60*	10*	55*
Feb.	1	60*	10*	55*
	15	60*	10*	55*
Mar.	1	60*	10*	55*
	15	40*	10*	55*
Apr.	1	30*	8*	45*
	15	20*	6*	35*
May	1	15*	5*	30*
	15	10*	4*	25*
Jun.	1	7*	3*	20*
	15	5*	2*	15*
Jul.	1	4*	2*	12*
	15	3*	1*	10*
Aug.	1	3*	1*	8*
	15	3*	1*	8*
Sep.	1	3*	1*	8*
	15	3*	1*	8*
Oct.	1	3*	2*	18*
	15	4*	2*	20*
Nov.	1	5*	3*	30*
	15	10*	4*	40*
Dec.	1	20*	5*	55*
	15	60*	7*	55*

Nooksack--WRIA 1

173-501-030

Month	Day	WDOE-2056-00 Gallop Creek	WDOE-2101-00 Hutchinson Creek	WDOE-2149-00 Johnson Creek	12-2065-00 Kendall Cr.
Jan.	1	12	60	60*	10*
	15	12	60	60*	10*
Feb.	1	12	60	60*	10*
	15	12	60	60*	10*
Mar.	1	12	60	60*	10*
	15	12	60	60*	10*
Apr.	1	12	60	60*	10*
	15	12	60	45*	10*
May	1	12	60	35*	10*
	15	12	60	25*	10*
Jun.	1	12	60	20*	10*
	15	12	60	15*	10*
Jul.	1	12*	60*	12*	10*
	15	8*	40*	9*	6*
Aug.	1	6*	25*	9*	4*
	15	5*	15*	9*	3*
Sep.	1	5*	15*	9*	3*
	15	5*	15*	9*	3*
Oct.	1	5*	25*	9*	5*
	15	5*	30*	9*	6*
Nov.	1	8*	35*	13*	7*
	15	12	40	20*	8*
Dec.	1	12	50	30*	9*
	15	12	60	60*	10*

Month	Day	WDOE-2059-00 Maple Creek	12-2105-00 Nooksack R. (at Deming)	12-2131-00 Nooksack R. (at Ferndale)
Jan.	1	20	2050	2900
	15	20	2050	2900
Feb.	1	20	2150	2900
	15	30	2350	2900
Mar.	1	30	2350	2900
	15	30	2350	2900
Apr.	1	30	2350	2900
	15	30	2350	2900
May	1	30	3325	2900
	15	30	3400	3500
Jun.	1	30	3400	3500
	15	30	3400	3500
Jul.	1	20*	3400	3500
	15	20*	2950	3000
Aug.	1	20*	1700	2400
	15	10*	1700	1900
Sep.	1	10*	1700	1800
	15	10*	1700	1700
Oct.	1	20*	1700	1700
	15	20*	2050	2050
Nov.	1	20*	2050	2300
	15	20	2050	2500
Dec.	1	20	2050	2900
	15	20	2050	2900

Month	Day	12-2080-00 Nooksack River (Middle Fork)	12-2072-00 Nooksack River (North Fork nr. Deming)	12-2090-00 Nooksack River (South Fork)
Jan.	1	275	1100	650
	15	275	1100	650
Feb.	1	380	1100	650
	15	380	1100	850
Mar.	1	380	1100	850
	15	380	1100	850
Apr.	1	380	1100	850
	15	380	1100	850
May	1	380	1100	850
	15	450	2000	850

Month	Day	12-2080-00 Nooksack River (Middle Fork)	12-2072-00 Nooksack River (North Fork nr. Deming)	12-2090-00 Nooksack River (South Fork)
Jun.	1	525	2000	850
	15	525	2000	850
Jul.	1	525	2000	850*
	15	400	2000	550*
Aug.	1	275	1100	300*
	15	275	1100	300*
Sep.	1	275	1100*	300*
	15	275	1100*	300*
Oct.	1	275	1100*	300*
	15	275	1100*	650*
Nov.	1	275	1100*	650
	15	275	1100	650
Dec.	1	275	1100	650
	15	275	1100	650

Month	Day	WDOE-2084-00 Porter Creek	WDOE-2071-00 Racehorse Cr.	WDOE-2155-00 Saar Creek
Jan.	1	10	60	35*
	15	10	60	35*
Feb.	1	10	60	35*
	15	10	60	35*
Mar.	1	10	60	35*
	15	10	60	35*
Apr.	1	10	60	35*
	15	10	80	35*
May	1	10	80	35*
	15	10	90	35*
Jun.	1	10	90	35*
	15	10	90	35*
Jul.	1	10*	50*	22*
	15	6*	35*	15*
Aug.	1	3*	20*	9*
	15	3*	20*	6*
Sep.	1	3*	20*	6*
	15	3*	20*	6*
Oct.	1	3*	20*	12*
	15	6*	30*	14*
Nov.	1	10*	35*	17*
	15	10	40	19*
Dec.	1	10	47	23*
	15	10	55	35*

Month	Day	WDOE-2132-00 Silver Creek	12-2095-00 Skookum Cr.	WDOE-2111-00 Smith Creek
Jan.	1	12	115	40
	15	12	115	40
Feb.	1	12	115	40
	15	12	115	40
Mar.	1	12	115	40
	15	12	115	40
Apr.	1	12	115	40
	15	12	115	60
May	1	12*	115	60*
	15	9*	115	60*
Jun.	1	7*	115	60*
	15	6*	115	40*
Jul.	1	4*	115*	35*
	15	3*	66*	25*
Aug.	1	3*	66*	15*
	15	3*	66*	10*
Sep.	1	3*	66*	10*
	15	3*	66*	10*
Oct.	1	4*	66*	15*
	15	4*	80*	20*
Nov.	1	6*	115*	23*
	15	10	115	25
Dec.	1	12	115	30
	15	12	115	35

Month	Day	12-2145-00 Sumas River	12-2129-00 Tenmile Cr.	WDOE- 2133-00 Terrell Creek	WDOE- 2126-00 Wiser Lk. Cr.
Jan.	1	100*	40*	12	11
	15	100*	40*	12	11
Feb.	1	100*	40*	12	11
	15	100*	40*	12	11
Mar.	1	100*	40*	12	11
	15	100*	40*	12	11
Apr.	1	100*	40*	12	9
	15	100*	40*	12	7
May	1	70*	30*	8*	6*
	15	60*	22*	5*	5*
Jun.	1	40*	17*	4*	4*
	15	35*	12*	3*	3*
Jul.	1	25*	10*	2*	2*
	15	20*	7*	2*	2*
Aug.	1	20*	5*	2*	2*
	15	20*	5*	2*	2*
Sep.	1	20*	5*	2*	2*
	15	20*	6*	2*	2*
Oct.	1	20*	7*	2*	2*
	15	20*	10*	2*	2*
Nov.	1	35*	15*	3*	3*
	15	60*	20*	5	6
Dec.	1	80*	30*	7	8
	15	100*	40*	12	11

(3) Instream flow hydrographs, as represented in Appendix A of the document entitled Nooksack Instream Resources Protection Program, shall be used for identification of instream flows on those days not specifically identified in WAC 173-501-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Nooksack WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-501-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream and at all other downstream control stations, except for those uses described in WAC 173-501-070 (1) through (3).

(5) Projects that would reduce the flow in a section of stream's length (e.g., hydroelectric projects that withdraw streamflow from some length of the channel) are considered consumptive with respect to the affected stream reach. Such projects will be subject to instream flow requirements as specified by the department. These flows will be those established in WAC 173-501-030 (1) through (3) and WAC 173-501-040, or may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach and project-specific flow requirements, the department will require the project proponent to conduct such studies in consultation with affected state and federal agencies and Indian tribes.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-030, filed 12/4/85.]

WAC 173-501-040 Surface water source limitations to further consumptive appropriation. (1) The following table indicates the status of streams, tributaries and lakes affected by this chapter.

Source Name	Tributary To	Former Administrative Status	Status Under Regulation	Period of Closure	Flow Established
Anderson Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Bells Creek	North Fork Nooksack	open	closure	year round	WAC 173-501-030(2)
Bertrand Creek	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Black Slough	Nooksack - South Fork	low flow	low flow		
California Creek	Drayton Harbor	closure	closure	year round	WAC 173-501-030(2)
Canyon Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Canyon (Lake) Creek	Middle Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Chuckanut Creek	Chuckanut Bay	low flow	closure	year round	natural flow
Colony Creek (incl. Whitehall)	Samish Bay	open	closure	year round	natural flow
Cornell Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Dakota Creek	Drayton Harbor	closure	closure	year round	WAC 173-501-030(2)
Deer Creek	Barrett Lake (Tenmile)	closure	closure	year round	WAC 173-501-030(2)
Fishtrap Creek (incl. Double Ditch)	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Fourmile Creek	Tenmile Creek	closure	closure	year round	WAC 173-501-030(2)
Gallop Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Hutchinson Creek	South Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Johnson Creek	Sumas River	closure	closure	year round	WAC 173-501-030(2)
Kamm Ditch/ Stickney Slough	Nooksack River	closure	closure	year round	natural flow
Kendall Creek	North Fork Nooksack	open	closure	year round	WAC 173-501-030(2)
Maple Creek	North Fork Nooksack	open	closure	July 1-Oct. 31	WAC 173-501-030(2)
Nooksack River - mainstem	Bellingham Bay	low flow	minimum flow (new flow)		WAC 173-501-030(2)
Nooksack River - Middle Fk.	Nooksack River	low flow	minimum flow (new flow)		WAC 173-501-030(2)
Nooksack River - North Fk.	Nooksack River	low flow	partial year closure	Sept. 1-Oct. 31	WAC 173-501-030(2)
Nooksack River - South Fk.	Nooksack River	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Oyster Creek	Samish Bay	open	closure	year round	natural flow
Padden Creek	Bellingham Bay	open	closure	year round	natural flow
Porter Creek	Middle Fork Nooksack	open	partial year closure	July 1-Oct. 1	WAC 173-501-030(2)

Source Name	Tributary To	Former Administrative Status	Status Under Regulation	Period of Closure	Flow Established
Racehorse Creek	North Fork Nooksack	open	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Saar Creek	Vedder Canal-Canada	open	closure	year round	WAC 173-501-030(2)
Saxon Creek	South Fork Nooksack	open	closure	year round	natural flow
Silver Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Skookum Creek	South Fork Nooksack	low flow	partial year closure	July 1-Oct. 31	WAC 173-501-030(2)
Smith Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Squalicum Creek	Bellingham Bay	closure	closure	year round	
Sumas River	Vedder Canal-Canada	closure	closure	year round	WAC 173-501-030(2)
Tenmile Creek	Nooksack River	closure	closure	year round	WAC 173-501-030(2)
Terrell Creek	Birch Bay	open	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Thompson Creek	Glacier Cr./N. Fk.	open	partial year closure	July 1-Oct. 31	natural flow
Unnamed Stream - Elder Ditch/Scott Ditch	Nooksack River				
Unnamed stream - White Creek	Colony Creek	closure	closure		
Whatcom Creek*	Bellingham Bay	open	closure	year round	natural flow
Wiser Lake Creek	Nooksack River	low flow	partial year closure	May 1-Oct. 31	WAC 173-501-030(2)
Lummi Indian Reservation Streams					
Barrett Lake	Tenmile Creek	closure	closure		NA
Green Lake	Fourmile Creek	closure	closure		NA
Lake Terrell	Terrell Creek	closure	closure		NA
Lake Whatcom**	Whatcom Creek	court-ordered lake level	closure	year round	NA
Wiser Lake	Wiser Lake Creek	closure	closure		NA

For streams listed as "natural flow," insufficient data are available to develop instream flows outside the closure period. Water right applications for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game; tribes will also be notified.

Streams which are not specifically listed in this regulation are affected by the regulation if they are tributary to streams or lakes listed herein; otherwise such streams are not affected.

*No exemptions. See WAC 173-501-070(2).

**Lake Whatcom and its tributaries are closed to all further consumptive appropriation; however, any water right applications for consumptive use which were on file with the department of ecology on August 7, 1985 shall be exempt from the closure through the period extending one year from the effective date of this chapter.

(2) When a project (as described in WAC 173-501-030(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-040, filed 12/4/85.]

WAC 173-501-050 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-050, filed 12/4/85.]

WAC 173-501-060 Ground water. If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public ground waters may be approved.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-060, filed 12/4/85.]

WAC 173-501-070 Exemptions. (1) Nothing in this chapter shall affect existing water rights, perfected riparian rights, federal Indian and non-Indian reserved rights, appropriative or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic, (including up to 1/2 acre lawn and garden irrigation and associated noncommercial stockwatering) shall be exempt from the provisions established in this chapter, except that Whatcom Creek is closed to any further appropriation, including otherwise exempted single domestic use. For all other streams, when the cumulative impact of single domestic diversions begins to significantly affect the quantity of water available for instream uses, then any water rights issued after that time shall be issued for in-house use only, if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of this chapter may be approved.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). 85-24-073 (Order 85-19), § 173-501-070, filed 12/4/85.]

WAC 173-501-080 Policy statement for future permitting actions. (1) No rights to divert or store public surface waters of WRIA 1 shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020 (3)(a).

(2) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Nooksack WRIA by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2), 85-24-073 (Order 85-19), § 173-501-080, filed 12/4/85.]

WAC 173-501-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW, 88-13-037 (Order 88-11), § 173-501-090, filed 6/9/88. Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2), 85-24-073 (Order 85-19), § 173-501-090, filed 12/4/85.]

WAC 173-501-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW, 88-13-037 (Order 88-11), § 173-501-095, filed 6/9/88.]

WAC 173-501-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW, 88-13-037 (Order 88-11), § 173-501-100, filed 6/9/88. Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2), 85-24-073 (Order 85-19), § 173-501-100, filed 12/4/85.]

Chapter 173-507 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--SNOHOMISH RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 7

WAC

- 173-507-010 General provision.
- 173-507-020 Establishment of instream flows.
- 173-507-030 Surface water source limitations to further consumptive appropriations.
- 173-507-040 Ground water.
- 173-507-050 Exemptions.
- 173-507-060 Future rights.
- 173-507-070 Enforcement.
- 173-507-075 Appeals.
- 173-507-080 Regulation review.

WAC 173-507-010 General provision. These rules apply to surface waters within the Snohomish River basin, WRIA-7 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-507 WAC.

[Statutory Authority: Chapters 90.22 and 90.54 RCW, 79-10-003 (Order DE 79-8), § 173-507-010, filed 9/6/79.]

WAC 173-507-020 Establishment of instream flows. (1) Instream flows are established for stream management units with monitoring to take place at certain control stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.1330.00 So. Fk. Skykomish River	51.6 28-27-10E	From confluence with N. Fk. Skykomish River to headwaters.
12.1381.50 Sultan River	5.1 17-28-8E	From mouth to headwaters.
12.1411.00 Skykomish River	25.0 12-27-6E	From mouth to headwaters, excluding So. Fk. Skykomish River and Sultan River.
12.1430.00 No. Fk. Snoqualmie	2.2 26-24-8E	From mouth to headwaters.
12.1445.00 Snoqualmie River	40.0 19-24-8E	From Snoqualmie Falls to headwaters, excluding No. Fork Snoqualmie River.
12.1485.00 Tolt River	8.7 31-26-8E	From mouth to headwaters.
12.1490.00 Snoqualmie River	23.0 9-25-7E	From confluence with Harris Creek to Snoqualmie Falls, excluding Tolt River.
12. Snoqualmie River	2.5 26-27-6E	From mouth to confluence with Harris Creek, including Harris Creek.
12.1554.00 Pilchuck River	1.9 18-28-6E	From mouth to headwaters.
12.1508.00 Snohomish River	20.4 16-27-6E	From influence of mean annual high tide at low base flow levels to confluence with Skykomish River and Snoqualmie River, excluding Pilchuck River.

(2) Instream flows established for the stream management units in WAC 173-507-020(1) are as follows:

**INSTREAM FLOWS IN THE SNOHOMISH RIVER BASIN
(in Cubic Feet per Second)**

Month	Day	12.1330.00 So.Fk. Skykomish	12.1411.00 Skykomish	12.1430.00 No.Fk* Snoqualmie	No.Fk.** Snoqualmie
Jan.	1	900	2200	260	200
	15	900	2200	260	200
Feb.	1	900	2200	260	200
	15	900	2200	260	200
Mar.	1	900	2200	260	200
	15	900	2200	300	200
Apr.	1	1100	2650	300	200
	15	1250	3250	300	200
May	1	1250	4000	300	200
	15	1250	4900	300	200
June	1	1250	4900	300	200
	15	1250	4900	300	200
July	1	1250	3250	300	200
	15	950	2170	195	140
Aug.	1	650	1450	130	100
	15	450	1000	130	100
Sept.	1	450	1000	130	100
	15	450	1000	130	100
Oct.	1	550	1300	130	130
	15	700	1700	165	165
Nov.	1	900	2200	210	200
	15	900	2200	260	200
Dec.	1	900	2200	260	200
	15	900	2200	260	200

*Normal year flows must be maintained at all times unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and wildlife, a reduction in instream flows during a critical condition period. At no time are diversions subject to this regulation permitted for any reason when flows fall below the following critical year flows, except where a declaration of overriding considerations of public interest is made by the director.

**Critical year flows represent flows below which the department believes substantial damage to instream values will occur.

Month	Day	12.1381.50 Sultan	12.1445.00 Snoqualmie (above Falls)	12.1485.50 Tolt River*	Tolt River**
Jan.	1		1550	280	190
	15		1550	280	190
Feb.	1		1550	280	190
	15		1550	280	190
Mar.	1		1550	280	190
	15		1550	280	190
Apr.	1		1550	280	190
	15		1550	280	190
May	1		1550	280	190
	15		1550	280	190
June	1		1550	280	190
	15		1550	280	165
July	1		1550	280	140
	15		1100	240	120
Aug.	1		770	170	120
	15		600	120	120
Sept.	1		600	120	120
	15		600	120	120
Oct.	1		820	190	185
	15		1100	280	190
Nov.	1		1550	280	190
	15		1550	280	190
Dec.	1		1550	280	190
	15		1550	280	190

*Normal year flows must be maintained at all times unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and wildlife, a reduction in instream flows during a critical condition period. At no time are diversions subject to this regulation permitted for any reason when flows fall below the following critical year flows, except where a declaration of overriding considerations of public interest is made by the director.

**Critical year flows represent flows below which the department believes substantial damage to instream values will occur.

Month	Day	12.1490.00 Snoqualmie (Carnation)	12. Snoqualmie (mouth)	12.1554.00 Pilchuck R.	12.1508.00 Snohomish R.
Jan.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Feb.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Mar.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Apr.	1	2500	2800	300	6000
	15	2500	2800	300	6500
May	1	2500	2800	300	7200
	15	2500	2800	300	8000
June	1	2500	2800	300	8000
	15	2500	2800	300	8000
July	1	1850	2180	220	5700
	15	1300	1550	160	4000
Aug.	1	950	1080	120	2800
	15	700	800	85	2000
Sept.	1	700	800	85	2000
	15	700	800	85	2000
Oct.	1	1050	1200	130	2900
	15	1650	1850	200	4000
Nov.	1	2500	2800	300	6000
	15	2500	2800	300	6000
Dec.	1	2500	2800	300	6000
	15	2500	2800	300	6000

(3) Instream flow hydrographs, as represented in the document entitled "Snohomish River instream resource protection program," shall be used for definition of instream flows on those days not specifically identified in WAC 173-507-020(2).

(4) All consumptive water rights hereafter established shall be expressly subject to the instream flows established in WAC 173-507-020 (1) through (3).

(5) At such time as the departments of fisheries and/or wildlife and the department of ecology agree that additional stream management units should be defined, other than those specified in WAC 173-507-020(1), the department of ecology shall identify additional control stations and management units on streams and tributaries within the basin and shall set instream flows where possible for those stations as provided in chapters 90.22 and 90.54 RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-507-020, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-020, filed 9/6/79.]

WAC 173-507-030 Surface water source limitations to further consumptive appropriations. (1) The department, having determined further consumptive appropriations would harmfully impact instream values, adopts instream flows as follows confirming surface water

source limitations previously established administratively under authority of chapter 90.03 RCW and RCW 75.20.050.

LOW FLOW LIMITATIONS

Stream	Limitation	Point of Measurement
Evans Creek, Tributary to Lake Beecher	No diversion when flow drops below 2.0 cfs.	800 ft. So. and 800 ft. east of center of Sec. 7, T. 27 N., R. 6 E.W.M.
Foye Creek Tributary to Riley Slough	No diversion when flow drops below 4.0 cfs.	750 ft. So. and 325 ft. east of N1/4 cor. of Sec. 18, T. 27 N., R. 6 E.W.M.
French Creek, Tributary to Snohomish River	No diversion when flow drops below 0.75 cfs.	125 ft. No. and 1300 ft. west of E1/4 of Sec. 20, T. 28 N., R. 6 E.W.M.
Langlois Creek Tributary to Tolt River	No diversion when flow drops below 3.0 cfs.	1040 ft. No. and 1250 ft. east of SW1/4 cor. of Sec. 22, T. 25 N., R. 7 E.W.M.
Tate Creek, Tributary to No. Fk. Snoqualmie River	No diversion when flow drops below 2.0 cfs.	900 ft. east and 870 ft. No. of W1/4 cor. of Sec. 26, T. 24 N., R. 8 E.W.M.
Tulip Creek, Tributary to Tulip Bay	No diversion when flow drops below 2.5 cfs.	1125 ft. west and 125 ft. No. of S1/4 cor. of Sec. 22, T. 30 N., R. 4 E.W.M.
Unnamed Stream (Coon Creek), Tributary to Pilchuck River.	No diversion when flow drops below 1.0 cfs.	480 ft. No. and 240 ft. west of center of Sec. 19, T. 30 N., R. 7 E.W.M.
Unnamed Stream (Coon Creek), Tributary to Pilchuck River	One-half of low flow must be bypassed.	800 ft. east and 1100 ft. So. of W1/4 cor. of Sec. 19, R. 30 N., R. 7 E.W.M.
Unnamed Stream, Tributary to Cherry Creek	No diversion when flow drops below 1.0 cfs.	1000 ft. So. and 400 ft. west of NE cor. of Sec. 16, T. 26 N., R. 7 E.W.M.
Unnamed Stream, Tributary to McCoy Creek	No diversion when flow drops below 0.5 cfs.	600 ft. west and 100 ft. No. of SE cor. of Sec. 5, T. 27 N., R. 8 E.W.M.
Unnamed Stream, Tributary to Snoqualmie River	No diversion when flow drops below 30.0 cfs.	350 ft. west and 900 ft. No. of SE cor. of Sec. 5, T. 27 N., R. 8 E.W.M.
Unnamed Stream (Solberg Creek), Tributary to Snoqualmie River	No diversion when flow drops below 2.0 cfs.	600 ft. west and 1050 ft. No. of E cor. of Sec. 12, T. 25 N., R. 6 E.W.M.
Unnamed Stream, Tributary to Snoqualmie River	One-half of low flow must be bypassed.	500 ft. So. and 1120 ft. east of center Sec. 28, T. 25 N., R. 7 E.W.M.
Unnamed Stream, Tributary to Snoqualmie River	No diversion when flow falls below 1.0 cfs.	600 ft. No. of E1/4 cor. of Sec. 28, T. 25 N., R. 7 E.W.M.
Wood Creek, Tributary to Snohomish River	No diversion when flow drops below 0.75 cfs.	335 ft. No. and 130 ft. east of S1/4 cor. of Sec. 8, T. 28 N., R. 5 E.W.M.
Woods Creek Tributary to Skykomish River	No diversion when flow drops below 11.0 cfs.	Immediately below confl. of West Fork in SE1/4NW1/4 Sec. 33, T. 28 N., R. 7 E.W.M.
Woods Creek, Tributary to Skykomish River	No diversion when flow drops below 6.0 cfs.	Immediately above said confl. of West Fork.

Stream	Limitation	Point of Measurement
Woods Creek, Tributary to Skykomish River	No diversion when flow drops below 2.5 cfs.	Immediately above confl. of Roesigner Cr. in NE1/4NW1/4 of Sec. 3, T. 28 N., R. 7 E.W.M.
Woods Creek, Tributary to Skykomish River	No diversion when flow drops below 0.5 cfs.	Roesigner Creek, immediately above said confl. with Woods Creek.
Woods Creek, Tributary to Skykomish River	No diversion when flow drops below 5.0 cfs.	West Fork, immediately above said confl. with Woods Creek.
Woods Creek, Tributary to Skykomish River	No diversion when flow drops below 2.5 cfs.	West Fork when it crosses the No. line of Sec. 5, T. 28 N., R. 7 E.W.M.
Unnamed Lake (Morris Lake), Tributary to Horseshoe Lake	No diversion when flow drops below 1.0 cfs.	Lake outlet at NE1/4NE1/4 of Sec. 9, T. 25 N., R. 7 E.W.M.

Note: Affected stream reaches extend from mouth to headwaters and include all tributaries in the contributing drainage area unless specifically excluded.

(2) The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following streams to further consumptive appropriation for the periods indicated. These closures confirm surface water source limitations previously established administratively under authority of chapter 90.03 RCW and RCW 75.20.050.

SURFACE WATER CLOSURES

Stream	Date of Closure	Period of Closure
Griffin Creek, Tributary to Snoqualmie River	9/22/53	All year
Harris Creek, Tributary to Snoqualmie River	1/20/44	All year
Little Pilchuck Creek, Tributary to Pilchuck River	5/6/52	All year
May Creek, Tributary to Wallace River	10/13/53	All year
Patterson Creek, Tributary to Snoqualmie River	2/19/52	All year
Quilceda Creek, Tributary to Ebey Slough	6/10/46	All year
Raging River, Tributary to Snoqualmie River	9/20/51	All year
Unnamed Stream (Bodell Creek), Tributary to Pilchuck River	9/6/51	All year

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-030, filed 9/6/79.]

WAC 173-507-040 Ground water. In future permitting actions relating to ground water withdrawals, the natural interrelationship of surface and ground waters shall be fully considered in water allocation decisions to assure compliance with the meaning and intent of this regulation.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-040, filed 9/6/79.]

WAC 173-507-050 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) Domestic inhouse use for a single residence and stock watering, except that related to feed lots, shall be exempt.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-050, filed 9/6/79.]

WAC 173-507-060 Future rights. No right to divert or store public surface waters of the Snohomish WRIA 7 shall hereafter be granted which shall conflict with the instream flows and closures established in this chapter. Future rights for nonconsumptive uses, subject to the conditions herein established, may be granted.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-060, filed 9/6/79.]

WAC 173-507-070 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-507-070, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-070, filed 9/6/79.]

WAC 173-507-075 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-507-075, filed 6/9/88.]

WAC 173-507-080 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-507-080, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-003 (Order DE 79-8), § 173-507-080, filed 9/6/79.]

(1989 Ed.)

Chapter 173-508 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--CEDAR-SAMMAMISH BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 8

WAC

173-508-010	Authority.
173-508-020	Purpose.
173-508-030	Closures and instream flows.
173-508-040	Table 1--Cedar-Sammamish basin--WRIA 8.
173-508-050	Ground water.
173-508-060	Instream flows for the Cedar River.
173-508-070	Future rights.
173-508-080	Exemptions.
173-508-090	Enforcement.
173-508-095	Appeals.
173-508-100	Regulation review.

WAC 173-508-010 Authority. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resource management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-010, filed 9/6/79. Formerly chapter 173-30 WAC.]

WAC 173-508-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in Lake Washington drainages with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, navigational values, and to preserve water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-020, filed 9/6/79.]

WAC 173-508-030 Closures and instream flows. (1) The department of ecology has determined that additional diversions of water from the Lake Washington drainage system would deplete instream flows and lake levels required to support the uses described in WAC 173-508-020. Therefore, lakes and streams contributing to the Lake Washington drainage above the Hiram M. Chittenden Locks, excluding the Cedar River drainage, shall be closed to further consumptive appropriations. Regulation to protect instream flows in the Cedar River and its tributaries shall be undertaken pursuant to WAC 173-508-060.

(2) WAC 173-508-040--Table 1, includes specific named and unnamed surface water sources in water resource inventory area 8 with restrictions indicated. All tributaries in the Lake Washington drainage not specifically included in Table 1 are closed.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-030, filed 9/6/79.]

WAC 173-508-040 Table 1--Cedar-Sammamish basin--WRIA 8.

Stream or Lake	Tributary to	Restriction
(Little) Bear Creek	Sammamish River	Closure
Cedar River (including tributaries)	Lake Washington	Instream Flow Levels
Coal Creek	Lake Washington	Closure
Cottage Lake Creek and tributaries,	Sammamish River	Closure

[Title 173 WAC--p 625]

Stream or Lake	Tributary to	Restriction
Bear Creek		Closure
Evans Creek		Closure
Haller Lake	Thornton Creek	Closure
Issaquah Creek	Sammamish Lake	Closure
N. Fork Issaquah		Closure
E. Fork Issaquah		Closure
Unnamed Stream		Closure
Fifteen Mile Creek		Closure
Holder Creek		Closure
Carey Creek		Closure
Lake Washington	Puget Sound	Closure
Sammamish River	Lake Washington	Closure
Lake Sammamish	Sammamish River	Closure
Tibbetts Creek	Sammamish Lake	Closure
Pine Lake and Unnamed Stream (Pine Lake Creek)	Sammamish Lake	Closure
Laughing Jacobs Creek	Sammamish Lake	Closure
Larson Lake (including tributaries)	Lake Washington	Closure
Lyon Creek	Lake Washington	Closure
Martha Lake	Swamp Creek	Closure
May Creek	Lake Washington	Closure
McAlee Creek		Closure
Lake Ballinger (McAlee Lake)	Lake Washington	Closure
Mercer Slough	Lake Washington	Closure
Kelsey Creek		Closure
Kinsley Creek		Closure
Mercer Slough Creek		Closure
North Creek	Sammamish River	Closure
Silver Lake		Closure
Pipers Creek	Puget Sound	Closure
Rock Creek	Cedar River	Closure
Swamp Creek	Sammamish River	Closure
Unnamed Springs	Sammamish Lake	Closure
Unnamed Stream (11-26-3E)	Puget Sound	Closure
Unnamed Stream (12-24-5E)	Sammamish Lake	Closure
Unnamed Stream (Jones Creek)	Cedar River	Closure
Unnamed Stream (Juanita Creek)	Lake Washington	Closure
Unnamed Stream (Northrup Creek)	Lake Washington	Closure
Unnamed Stream (Wildcat Creek)	Sammamish River	Closure
Thornton Creek	Lake Washington	Closure

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-040, filed 9/6/79.]

WAC 173-508-050 Ground water. In future permitting actions relating to ground water withdrawals, the natural interrelationship of surface and ground waters shall be fully considered in water allocation decisions to assure compliance with the intent of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-050, filed 9/6/79.]

WAC 173-508-060 Instream flows for the Cedar River. (1) The instream flows established in this section apply to waters of the Cedar River and affect the entire watershed drained by the Cedar River including all tributaries thereto.

(2) Instream flows established in this section shall be measured at the existing U.S. Geological Survey gaging station No. 12.1190.00 on the Cedar River at Renton, Washington.

(3) Except as provided herein (critical year flows), water flows in the Cedar River and tributaries thereto shall, to the extent depletion under existing rights and natural flow conditions permit, be maintained throughout each year at levels which, during the time periods designated, do not fall below the following measurements:

(a) Normal Year Flow

January 1 to June 20: 370 cfs

June 20 to July 15:	Linear decrease from 370 cfs on June 20 to 130 cfs on July 15
July 15 to September 10:	130 cfs
September 10 to September 20:	Linear increase from 130 cfs on September 10 to 200 cfs on September 20
September 20 to October 1:	200 cfs
October 1 to October 10:	Linear increase from 200 cfs on October 1 to 370 cfs on October 10
October 10 to January 1:	370 cfs

Normal year flows must be maintained at all times unless a critical condition is declared by the director. If natural Cedar River flows fall below the 1 in 10 year Cedar River flow frequency, the director, or his designee, may authorize flows below the normal year flows, but not lower than the critical year flow except where a declaration of overriding considerations of public interest is made by the director. All requests to deplete below the established instream flow level will be considered on a case-by-case basis.

(b) Critical Year Flow

January 1 to June 15:	250 cfs
June 15 to July 1:	Linear decrease from 250 cfs on June 15 to 110 cfs on July 1
July 1 to October 1:	110 cfs
October 1 to November 1:	Linear increase from 110 cfs on October 1 to 250 cfs on November 1
November 1 to January 1:	250 cfs

Critical year flows represent flows below which the department believes substantial damage to instream values will occur. Critical year flows are expected to be met unless natural Cedar River flows fall below the one in fifty year Cedar River flow frequency.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-060, filed 9/6/79.]

WAC 173-508-070 Future rights. No water rights to divert or store public surface waters of the Cedar-Sammamish basin WRIA 8 shall hereafter be granted which shall conflict with the instream flows and closures

established in this chapter. Future rights for nonconsumptive uses may be granted under the provisions of this chapter.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-508-070, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-070, filed 9/6/79.]

WAC 173-508-080 Exemptions. (1) Nothing in this chapter shall affect any existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter; nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) Domestic inhouse use for a single residence and stock watering, except that related to feedlots, shall be exempt from this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-080, filed 9/6/79.]

WAC 173-508-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-508-090, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-090, filed 9/6/79.]

WAC 173-508-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-508-095, filed 6/9/88.]

WAC 173-508-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-508-100, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 79-10-002 (Order DE 79-9), § 173-508-100, filed 9/6/79.]

Chapter 173-509 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--GREEN-DUWAMISH RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 9

WAC

173-509-010	Purpose.
173-509-015	Background.
173-509-020	General provision.
173-509-030	Establishment of instream flows.
173-509-040	Surface water source limitations to further consumptive appropriations.
173-509-050	Ground water.

(1989 Ed.)

173-509-060	Future rights.
173-509-070	Exemptions.
173-509-080	Enforcement.
173-509-085	Appeals.
173-509-090	Regulation review.
173-509-100	Implementation.

WAC 173-509-010 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Green-Duwamish drainage basin with instream flows and levels necessary for preservation and protection of wildlife, fish, scenic, aesthetic and other environmental values, recreational and navigational values, and to preserve water quality. Nothing in this chapter shall preclude the future issuance of regulations and/or signing of intergovernmental agreements which attempt to optimize the total public use of the basin water resources, providing they are consistent with the intent of this chapter. The instream flow rules presented here are for preservation of the existing resources so that when future planning or development occurs on this river these resources will be available.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-010, filed 6/6/80.]

WAC 173-509-015 Background. The Green-Duwamish River basin has been modified significantly since settlement of the area. Urbanization in the lower basin has influenced water quality and diversions for municipal and industrial water supply have altered the stream flow of the Green-Duwamish River. Ground water has been developed for consumptive use within the basin. The White River originally had a confluence with the Green River near Auburn but since 1906 it has been diverted into the Puyallup River. A dam on the Black River near Tukwila prevents water from the Green River from flowing into Lake Washington during periods of high flow. In 1913 the city of Tacoma commenced diversions for municipal and industrial uses. Since 1962 the Green-Duwamish River has been influenced by the operation of the Howard A. Hanson Dam, a Corps of Engineers flood control project with authorization to provide instream flow maintenance of at least 110 cfs for fisheries conservation purposes. The operation has also considered drinking water quality requirements of the city of Tacoma.

The Green-Duwamish River basin is a natural rearing and spawning area primarily for steelhead trout and chinook, coho and chum salmon. Fish hatcheries are located on tributary streams and these contribute to total numbers of fish produced by the river system. The river itself and the shoreline also offer easily accessible recreational opportunities.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-015, filed 6/6/80.]

WAC 173-509-020 General provision. These rules apply to all waters within the Green-Duwamish River basin, WRIA 9 (see WAC 173-500-040). This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter

[Title 173 WAC--p 627]

173-500 WAC (water resources management program). The provisions of this chapter apply, as a matter of state law, to future water right authorizations issued pursuant to the state's water rights codes.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-020, filed 6/6/80.]

WAC 173-509-030 Establishment of instream flows. (1) Instream flows are established for stream management units with monitoring to take place at certain control stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.1130.00 Green River near Auburn, WA	32.0 17-21-5	From influence of mean annual high tide at low instream flow levels (approximately River Mile 11.0) to USGS Gage #12.1067.000
12.1067.00 Green River near Palmer, WA	60.4 13-21-7	From USGS Gage #12.1067.000 to headwaters.

The Palmer gage will be used to condition future water rights upstream from that gage. The Auburn gage will be used to condition future water right appropriations downstream from the Palmer gage. If it becomes necessary to change a control station location to improve measurement accuracy or management capability, the department shall do so under provisions in WAC 173-500-060(6).

(2) Instream flows established for the stream management units in WAC 173-509-030(1) are as follows:

INSTREAM FLOWS FOR FUTURE WATER RIGHTS IN THE GREEN-DUWAMISH RIVER BASIN (in Cubic Feet per Second)

Month	Day	12.1130.00 Normal Year Green River Near Auburn	12.1067.00 Normal Year Green River Near Palmer	12.1067.00 Critical Year Green River Near Palmer
Jan.	1	650	300	300
	15	650	300	300
Feb.	1	650	300	300
	15	650	300	300
Mar.	1	650	300	300
	15	650	300	300
Apr.	1	650	300	300
	15	650	300	300
May	1	650	300	300
	15	650	300	300
June	1	650	300	300
	15	650	300	210
July	1	550	300	150
	15	300	150	150
Aug.	1	300	150	150
	15	300	150	150
Sept.	1	300	150	150
	15	300	150	150
Oct.	1	300	190	150
	15	350	240	150
Nov.	1	550	300	190
	15	550	300	240

Month	Day	12.1130.00 Normal Year Green River Near Auburn	12.1067.00 Normal Year Green River Near Palmer	12.1067.00 Critical Year Green River Near Palmer
Dec.	1	650	300	300
	15	650	300	300

(a) Future water right holders subject to regulation by the Palmer gage will not be allowed to continue diversions when flows fall below the normal year instream flows at the Palmer gage unless a critical condition is declared by the director. The director, or his designee, may authorize, in consultation with the state departments of fisheries and wildlife, a reduction in instream flows during a critical condition period. At no time will diversions subject to regulation by the Palmer gage be continued when flows fall below the critical year instream flows at Palmer. At no time will diversions subject to regulation by the Auburn gage be continued when flows fall below the normal year instream flows at Auburn. When a declaration of overriding considerations of public interest is made by the director, these requirements may be modified or waived. A declaration of overriding consideration because of drought conditions shall not be made when natural flows equal or exceed the one-in-fifty year low flow condition. The director shall consult with the directors of the state departments of wildlife and fisheries before making a declaration of overriding consideration. Any declaration of critical conditions or overriding considerations of public interest made by the director shall be communicated to all basin resource agencies, water purveyors, and local general purpose governments, and include the reason for such declaration and its expected duration.

(b) The director will consider declaring a critical period when:

(1) In the spring the basin runoff volume forecast of May 1 is not adequate to meet the sum of any rights which the city of Tacoma may have established through historical usage prior to the adoption of this regulation plus the normal year instream flows plus the volume required to replenish the conservation storage.

(2) In the summer and fall the sum of the reservoir inflows extrapolated from current observations plus the volume of water in storage at Howard A. Hanson Dam is not adequate to meet the sum of any rights which the city of Tacoma may have established through historical usage prior to the adoption of this regulation plus the normal year instream flows. Within five days the director will inform the major affected water right holders of the extent of the allowed deviation from the normal year instream flows. Once a deviation from normal year instream flows is allowed, the water resources shall be evaluated at least every 7 days to see if additional deviation is warranted. Before allowing deviation from the normal year instream flows, water conservation practices and use of other sources shall be considered.

(c) In addition to other necessary provisions, any diversion of the natural flow, including diversion to storage under future water rights shall cease (or be regulated to the extent necessary) when the flow at the applicable control station falls below (or is less than) the instream

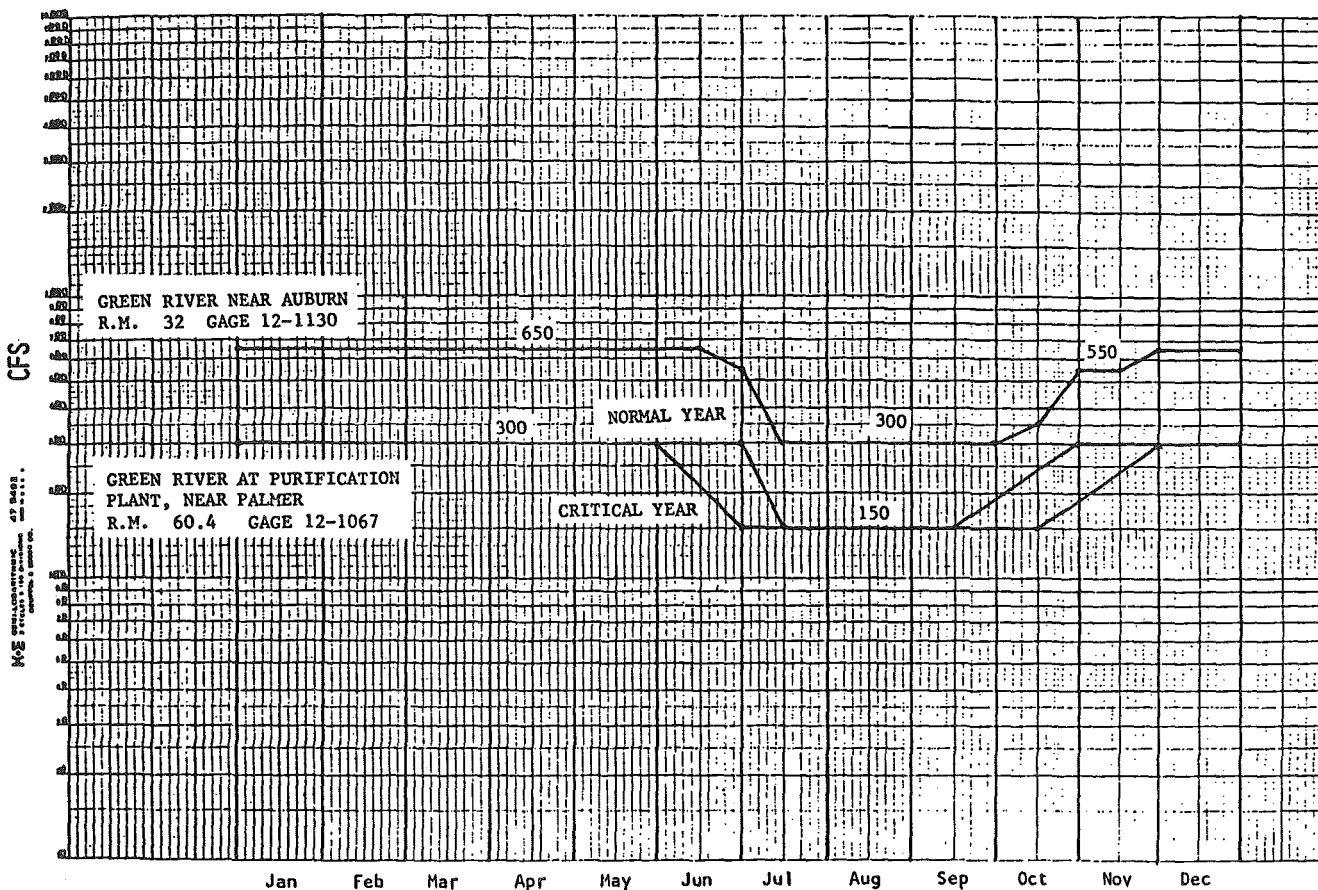
flows established by this regulation and made a condition of said future water right. Said future water rights are subject to the rights and authority of the Corps of Engineers to utilize for storage and conservation flows, the natural inflow to the Howard A. Hanson reservoir and to all other prior water right holders' authorized use of natural flows, including any rights that the city of Tacoma may have established through historical usage. The use of stored waters is not to be impaired, limited, or diminished by this regulation.

The department recognizes that from time to time the Corps of Engineers may establish a minimum reservoir level which is necessary to provide conservation flows with a high measure of assurance. When the reservoir

falls below this level it may be necessary for the Corps of Engineers to replenish conservation storage. When this occurs, water rights subject to the provisions of this chapter may be temporarily regulated or diminished and the actual stream discharge diminished.

(3) Instream flows, as represented in Figure 1, shall be used for definition of instream flows on those days not specifically identified in WAC 173-509-030(2).

FIGURE 1 - PROPOSED INSTREAM FLOWS FOR FUTURE WATER RIGHTS IN THE GREEN-DUWAMISH RIVER BASIN



(4) All consumptive water rights hereafter established shall be expressly subject to the instream flows established in WAC 173-509-030 (1) through (3). However, nothing in this section shall prohibit the release or diversion of stored water or the use of any water course as a means for its conveyance in accordance with RCW 90.03.030.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-509-030, filed 6/9/88. Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-030, filed 6/6/80.]

WAC 173-509-040 Surface water source limitations to further consumptive appropriations. (1) The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following

streams to further consumptive appropriation for the periods indicated. These closures confirm surface water source limitations previously established administratively under authority of chapter 90.03 RCW and RCW 75.20.050.

SURFACE WATER CLOSURES

Stream	Date of Administrative Closure	Period of Administrative Closure
All tributaries of Green River SE1/4SE1/4 sec. 14, T.32 N., R.4E.	8/19/53	All year
Deep Creek (including Hyde Lk.), tributary to Deep Lake NW1/4SE1/4 sec. 18, T.21N., R.7E.	4/17/53	All year
Unnamed stream (Des Moines Creek, Tributary to Puget Sound SW1/4SW1/4 sec. 8, T.22N., R.4E.	8/22/52	All year
Unnamed stream (Garrison Creek), Tributary to Black River (indirect) NW1/4NW1/4NW1/4 sec. 6, T.22N., R.5E.	10/18/51	All year
Unnamed stream (Miller Creek) (Maybrook Creek), Tributary to Puget Sound NE1/4NE1/4 sec. 36, T.23N., R.3E.	1/7/46	All year
Unnamed stream (Springbrook Creek), Tributary to Black River NE1/4SE1/4SW1/4 sec. 13, T.23N., R.4E.	11/14/45	All year

(2) The department, having determined that maximum lake levels have been established by court decree for certain lakes in WRIA 9, adopts the following lake levels. These maximum lake levels confirm lake levels previously established by order of the superior court for King County.

MAXIMUM LAKE LEVELS

Lakes	Lake Level Established	Date of Order
Angle Lake	349.27 ft. at MSL	4/21/75
Star Lake	324.46 ft. at MSL	9/20/50
Lake Sawyer (Tributary to Covington Creek)	518.94 ft. at MSL	8/5/52

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-040, filed 6/6/80.]

WAC 173-509-050 Ground water. Future ground-water withdrawal permits will not be affected by this chapter unless such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-050, filed 6/6/80.]

WAC 173-509-060 Future rights. No right to divert or store public waters of the Green-Duwamish River basin, WRIA 9, shall be granted which shall conflict with the purposes of this chapter: *Provided however,*

[Title 173 WAC—p 630]

Withdrawals of water which would conflict with said purposes may be authorized in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-060, filed 6/6/80.]

WAC 173-509-070 Exemptions. (1) Nothing in this chapter shall affect water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities, including but not limited to: (a) Howard Hanson Dam storage and operation as authorized in the Flood Control Act of May 17, 1950; (b) any existing right the city of Tacoma may have.

(2) Domestic inhouse use for a single residence and stock watering, except that related to feed lots, shall be exempt from the provisions of this chapter.

(3) Storage projects may be approved if they are not in conflict with the purposes of this chapter.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-070, filed 6/6/80.]

WAC 173-509-080 Enforcement. In the enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-509-080, filed 6/9/88. Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-080, filed 6/6/80.]

WAC 173-509-085 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-509-085, filed 6/9/88.]

WAC 173-509-090 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions. The director shall initiate a review of the rules by appointing a committee of major affected water right holders, basin resource management interests, and governmental agencies.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-509-090, filed 6/9/88. Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-090, filed 6/6/80.]

WAC 173-509-100 Implementation. In the event the COE is authorized to change the operation of Howard Hanson Dam in order to meet the stream flows established in this chapter and so advises the director, these regulations shall be reviewed by the department

within 180 days of the COE authorization to determine, what, if any, amendments are required to maintain the integrity and purpose of this chapter.

[Statutory Authority: RCW 90.22.020, 90.54.020 and 90.54.040. 80-07-005 (Order DE 79-32), § 173-509-100, filed 6/6/80.]

Chapter 173-510 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--PUYALLUP RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 10

WAC

- 173-510-010 General provision.
- 173-510-020 Purpose.
- 173-510-030 Establishment of instream flows.
- 173-510-040 Surface water source limitations to further consumptive appropriations.
- 173-510-050 Ground water.
- 173-510-060 Lakes.
- 173-510-070 Exemptions.
- 173-510-080 Future rights.
- 173-510-090 Enforcement.
- 173-510-095 Appeals.
- 173-510-100 Regulation review.

WAC 173-510-010 General provision. These rules apply to waters within the Puyallup River basin, WRIA 10, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-010, filed 3/21/80.]

WAC 173-510-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Puyallup River basin with instream flows and levels necessary to provide protection for wildlife, fish, scenic-aesthetic, environmental values, recreation, navigation, and to preserve high water quality standards.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-020, filed 3/21/80.]

WAC 173-510-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es)
12-0965.00 Upper Puyallup River	12.2 25-20-4E	Confluence with Puyallup River to the headwaters including all tributaries
12-0957.00 Carbon River	0.1 13-19-4E	From the confluence with the White River to the headwaters including all tributaries, excluding the Carbon River.

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es)
12-1015.00 Lower Puyallup River	6.6 20-20N-R4E	From the influence of mean annual high tide at low base flow levels to the confluence with the White River including all tributaries and excluding the White River.

(2) Instream flows are established for the stream management units in WAC 173-510-030(1) as follows:

Instream Flows in the Puyallup River Basin

(in cubic feet per second)

Month	Day	12-0965.00 Puyallup River (At Alderton)	12-1015.00 Puyallup River	12-0957.00 Carbon River
Jan	1	700	1400	600
	15	700	1400	550
Feb	1	750	1400	550
	15	800	1500	550
Mar	1	800	1600	550
	15	850	1700	550
Apr	1	900	1800	600
	15	950	1900	700
May	1	950	2000	900
	15	1000	2000	900
Jun	1	1050	2000	600
	15	1050	2000	500
Jul	1	1050	2000	450
	15	1050	1750	400
Aug	1	900	1500	350
	15	800	1300	350
Sep	1	600	1150	350
	15	500	1000	350
Oct	1	500	1000	350
	15	500	1000	550
Nov	1	600	1000	550
	15	700	1100	600
Dec	1	700	1200	700
	15	700	1300	700

(3) Instream flow hydrographs, as represented in the document entitled "Puyallup River basin instream resource protection program," shall be used for definition of instream flows on those days not specifically identified in WAC 173-510-030(2).

(4) All consumptive water rights hereafter established shall be expressly, subject to instream flows established in WAC 173-510-030(1) through (3).

(5) At such time as the department of fisheries and/or department of wildlife and the department of ecology shall agree that additional stream management units should be identified other than those specified in WAC 173-510-030(1), the department of ecology shall identify additional control stations and management units on streams and tributaries within the basin and shall further protect instream flows where possible for those stations as provided in chapters 90.22 and 90.54 RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-510-030, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-030, filed 3/21/80.]

WAC 173-510-040 Surface water source limitations to further consumptive appropriations. (1) The department of ecology, having determined unlimited consumptive appropriations would harmfully impact instream

values, adopts instream flows as follows confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

Low Flow Limitations

Stream Number Stream Name Section, Township, Range of Stream Mouth or Lake Outlet	Limitation
10.0594 Unnamed stream, tributary to Puyallup River NE1/4SE1/4, Sec. 8, T.18N, R.5E	No diversion when flow falls to 0.10 cfs.
10.0415 Unnamed stream, (Taylor Creek) tributary of Carbon River NW1/4SW1/4, Sec. 33, T.19N., R.5E	No diversion when flow falls to 1.0 cfs.
10.0402 Unnamed stream, (Van Ogle Creek) tributary to Puyallup River NW1/4SE1/4, Sec. 30, T.20N, R.5E	No diversion when discharge into the Puyallup River drops to 1.0 cfs.
Unnamed stream, (Canyon Creek) tributary to Puyallup River SE1/4NE1/4, Sec. 24, T. 20N, R.3E	No diversion when flow falls to 1.0 cfs.

(2) The following stream and lake closures are adopted confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

Existing Surface Water Closures

Stream Number Stream Name Section, Township, Range	Date of Closure	Period of Closure
10.0414 Voight Creek, tributary to Carbon River NW1/4SW1/4, Sec. 33, T.19N., R.5E	2/26/75	All year
10.0589 Unnamed stream (Lawrence Creek), tributary to Puyallup River NW1/4NE1/4, Sec. 25, T.19N, R.4E	2/26/75	All year
Unnamed springs, tributary to Puyallup River SE1/4,NE1/4, Sec. 35, T.20N, R.4E	12/14/64	All year
10. 0006 Hylebos Creek Hylebos Creek, drains into Commencement Bay and Puget Sound NW1/4NE1/4, Sec. 27, T.21N, R.3E	4/26/76	All year
10.0406 Fennel Creek, tributary to Puyallup River SE1/4SE1/4, Sec. 6, T.19N, R.5E	2/26/75	All year
North Lake Sec. 15, T.21N, R.4E	8/19/47	All year

(3) The department, having determined that further consumptive appropriations would harmfully impact instream values, closes the following streams and lakes in WRIA 10 to further consumptive appropriations.

New Surface Water Closures

Stream Number Stream or Lake Name Section, Township, Range of Stream Mouth or Lake Outlet	Period of Closure
10.0429 South Prairie Creek and all tributaries, tributary to Carbon River SW1/4SE1/4, Sec. 27, T.19N, R.5E	All year
10.0027 Clarks Creek and all tributaries, tributary to Puyallup River NE1/4NE1/4, Sec. 19, T.20N, R.4E	All year

Stream Number Stream or Lake Name Section, Township, Range of Stream Mouth or Lake Outlet	Period of Closure
10.0600 Kapowsin Creek and all tributaries, tributary to Puyallup River SW1/4SW1/4, Sec. 20, T.18N, R.5E	All year
10.0031 -.0397 White River and all tributaries SW1/4SE1/4, Sec 23, T.20N, R.4E	All year
Kapowsin Lake SE1/4NE1/4, Sec. 5, T.17N., R.5E	All year
10.0603 -.0607 Ohop Creek and all tributaries source of Kapowsin Lake SE1/4NW1/4, Sec. 18, T.17N., R.3E	All year
10.0022 Clear Creek and all tributaries, tributary to Puyallup River NW1/4SW1/4, Sec. 11, T.20N., R.3E	All year
10.0410 Canyon Falls Creek and all tributaries, tributary to Puyallup River Sec. 7, T.19N., R.5E	All year
10.0596 Fiske Creek and all tributaries, tributary to Puyallup River SW1/4SW1/4, Sec. 17, T.18N., R.5E	All year
10.0006 Hylebos Creek and all tributaries, tributary to Commencement Bay NW1/4NE1/4, Sec. 27, T.21N., R.3E	All year
10.0620 Le Dout Creek and all tributaries, tributary to Puyallup River NW1/4NW1/4, Sec. 28, T.17N., R.6E	All year
10.0622 Niesson Creek and all tributaries, tributary to Puyallup River NE1/4SE1/4, Sec. 33, T.17N., R.6E	All year
10.0017 Wapato Creek and all tributaries, tributary to Commencement Bay NW1/4SW1/4, Sec. 27, T.21N., R.3E	All year
10.0035 Unnamed Stream (Strawberry Creek), (Salmon Creek) and all tributaries, tributary to White River NE1/4SE1/4, Sec. 13, T.20N., R.4E	All year
10.0621 Kellogg Creek and all tributaries, tributary to Puyallup River SE1/4SW1/4, Sec. 28, T.17N., R.6E	All year

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-040, filed 3/21/80.]

WAC 173-510-050 Ground water. In future permitting actions relating to ground water withdrawals, particularly from shallow aquifers, a determination shall be made as to whether the proposed withdrawal will have a direct, and measurable, impact on stream flows in streams for which closures and instream flows have been adopted (WAC 173-510-040). If the determination affirms such interrelationship, the provisions of WAC 173-510-040 shall apply.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-050, filed 3/21/80.]

WAC 173-510-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural

condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-060, filed 3/21/80.]

WAC 173-510-070 Exemptions. (1) Nothing in this chapter shall affect water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Domestic in-house use for a single residence and stock watering shall be exempt except that use related to feedlots.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-070, filed 3/21/80.]

WAC 173-510-080 Future rights. No rights to divert or store public surface waters of the Puyallup WRIA 10 shall hereafter be granted which shall conflict with the purpose of this chapter as stated in WAC 173-510-02 [WAC 173-510-020].

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-080, filed 3/21/80.]

WAC 173-510-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-510-090, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-090, filed 3/21/80.]

WAC 173-510-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-510-095, filed 6/9/88.]

WAC 173-510-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-510-100, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-04-047 (Order DE 79-31), § 173-510-100, filed 3/21/80.]

**Chapter 173-511 WAC
INSTREAM RESOURCES PROTECTION
PROGRAM--NISQUALLY RIVER BASIN, WATER
RESOURCE INVENTORY AREA (WRIA) 11**

WAC

- 173-511-010 General provision.
- 173-511-020 Purpose.
- 173-511-030 Establishment of instream flows.
- 173-511-040 Surface water source limitations to further consumptive appropriations.
- 173-511-050 Ground water.
- 173-511-060 Lakes.
- 173-511-070 Exemptions.
- 173-511-080 Future rights.
- 173-511-090 Enforcement.
- 173-511-095 Appeals.
- 173-511-100 Regulation review.

WAC 173-511-010 General provision. These rules apply to waters within the Nisqually River basin, WRIA 11, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-010, filed 2/2/81.]

WAC 173-511-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nisqually River basin with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, environmental values, recreation, navigation, and to preserve water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-020, filed 2/2/81.]

WAC 173-511-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
New gage Nisqually River	4.3 9, 18N, 1E	From influence of mean annual high tide at low base flow levels to the outlet of the Centralia City Light Power Plant.
12-0895-00 Nisqually River	21.8 28, 17N, 2E	From outlet of the Centralia City Light Power Plant at river mile 12.6 to Centralia City Light Power canal diversion at river mile 26.2, including all tributaries.
12-0884-00 Nisqually River	32.6 21, 16N, 3E	From the Centralia City

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach	Upper Reach of the Nisqually River USGS Gage 12-0825-00 RM 57.8	Mashel River USGS Gage 12-0870-00 RM 3.25		
			Month	Day		
12-0825-00 Nisqually River	57.8 29, 15N, 6E	Light Power canal diversion at river mile 26.2 to gage 12-0865-00 near the La Grande Power Plant, including all tributaries except the Mashel River.	January	1	450	100
				15	450	100
			February	1	450	100
				15	450	100
			March	1	450	100
				15	450	100
			April	1	450	100
				15	450	100
			May	1	450	100
				15	450	80
			June	1	600	80(closed)
				15	650	70(closed)
			July	1	550	50(closed)
				15	500	40(closed)
			August	1	450	30(closed)
	15	400	30(closed)			
September	1	350	20(closed)			
	15	300	20(closed)			
October	1	300	20(closed)			
	15	300	20(closed)			
November	1	350	40			
	15	400	70			
December	1	450	100			
	15	450	100			
12-0870.00 Mashel River	3.25 11, 16N, 4E	From mouth upstream to the headwaters including all tributaries.				

(2) Instream flows established for the stream management unit described in WAC 173-511-030(1) are as follows:

INSTREAM FLOWS IN THE NISQUALLY RIVER BASIN
(in Cubic Feet per Second)

Month	Day	Lower Reach of the Nisqually River USGS Gage 12-* RM 4.3	Bypass Reach of the Nisqually River USGS Gage 12-0895-00 RM 21.8	Mid Reach of the Nisqually River USGS Gage 12-0884-00 RM 32.6--
January	1	900	600	900
	15	900	600	900
February	1	900	600	900
	15	900	600	900
March	1	900	600	900
	15	900	600	900
April	1	900	600	900
	15	900	600	900
May	1	900	600	900
	15	900	600	900
June	1	900	500(closed)	800(closed)
	15	850	450(closed)	800(closed)
July	1	800	400(closed)	800(closed)
	15	800	400(closed)	800(closed)
August	1	800	370(closed)	800(closed)
	15	800	370(closed)	650(closed)
September	1	600	370(closed)	600(closed)
	15	600	370(closed)	600(closed)
October	1	700	550(closed)	700(closed)
	15	700	550(closed)	700(closed)
November	1	700	600	700
	15	700	600	700
December	1	800	600	800
	15	900	600	900

*New gage to be established.

(3) Instream flow hydrographs, as represented in the document entitled "Nisqually River basin instream resource protection program," shall be used for identification of instream flows on those days not specifically identified in WAC 173-511-030(2).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-030, filed 2/2/81.]

WAC 173-511-040 Surface water source limitations to further consumptive appropriations. (1) The department has determined that (a) certain streams exhibit low summer flows or have a potential for going dry thereby inhibiting anadromous fish passage during critical life stages, and (b) historic flow regimes and current uses of certain other streams indicate that no water is available for additional appropriation. Based upon these determinations the following streams and lakes are closed to further appropriation for the periods indicated:

New Surface Water Closures

Stream or Lake Section, Township, and Range of Mouth or Outlet	Tributary to	Period of Closure
Mashel River NE1/4SW1/4 Sec. 29, T16N, R4E and all tributaries	Nisqually River	June 1 - Oct. 31
Red Salmon Creek (Mounts Creek) NE1/4NW1/4 Sec. 33, T19N, R1E and all tributaries	Nisqually River	April 1 - Oct. 31
Clear Creek NE1/4SE1/4 Sec. 21, T18N, R1E and all tributaries	Nisqually River	April 1 - Oct. 31

Stream or Lake Section, Township, and Range of Mouth or Outlet	Tributary to	Period of Closure
Tanwax Creek NW1/4NE1/4 Sec.20, T16N, R3E and all tributaries	Nisqually River	April 1 - Oct. 31
McAllister Creek (except Medicine Creek) NW1/4N1/4 Sec. 6, T18N, R1E and all tributaries	Puget Sound	all year
Lake Saint Clair SE1/4NW1/4 Sec. 6, T17N, R1E		all year
Toboton Creek (above Hopson Road) SW1/4SW1/4 Sec. 19, T16N, R3E and all tributaries	Nisqually River	April 1 - Nov. 30
Lackamas Creek SE1/4SE1/4 Sec. 13, T16N, R2E and all tributaries	Nisqually River	April 1 - Nov. 30
Murray Creek NW1/4NW1/4 Sec. 16, T17N, R2E	Nisqually River	April 1 - Nov. 30
Bypass Reach, Nisqually River NE1/4SE1/4 Sec. 11, T17N, R1E	Puget Sound	June 1 - Oct. 31
Mid Reach, Nisqually River SE1/4NW1/4 Sec. 1, T16N, R2E	Puget Sound	June 1 - Oct. 31

(2) The following stream and lake low flows and closures are adopted confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

**Existing Surface Water Source Limitations
Current Administrative Status of Streams and Lakes
Nisqually Basin, WRIA 11**

Stream	Tributary to	Action	Dates
Eaton Creek SE1/4NW1/4 Sec. 6, T17N, R1E	Lake St. Clair	Closure	12/1/53
Harts Lake and outlet streams SW1/4SE1/4 Sec. 1, T16N, R2E	Nisqually River	Low Flow (0.5 cfs bypass)	10/7/44
Horn Creek SW1/4NE1/4 Sec. 1, T16N, R2E	Nisqually River	Closure	7/22/74
Muck Creek and all tributaries SW1/4SW1/4 Sec. 36, T18N, R1E	Nisqually River	Closure	5/26/48
Ohop Creek and all tributaries SW1/4NE1/4 Sec. 25, T16N, R3E	Nisqually River	Closure	2/15/52

(1989 Ed.)

Stream	Tributary to	Action	Dates
Ohop Lake NE1/4SE1/4 Sec. 10, T16N, R1E	Ohop Creek	Lake Level (523 ft)	3/25/66
Thompson Creek and all tributaries SE1/4NE1/4 Sec. 11, T17N, R1E	Nisqually River	Low Flow (1.0 cfs bypass)	11/19/51
Unnamed Stream and all tributaries SW1/4NW1/4 Sec. 11, T15N, R4E	Alder Lake (Nisqually River)	Closure	4/28/64
Unnamed Stream and all tributaries SW1/4SE1/4 Sec. 17, T17N, R2E	Centralia Canal (Nisqually River)	Low Flow (0.75 cfs bypass)	11/19/51
Unnamed Stream and all tributaries SE1/4SE1/4 Sec. 27, T17N, R2E	Nisqually River	Low Flow (0.50 cfs bypass)	12/6/50
Yelm Creek and all tributaries SW1/4SW1/4 Sec. 12, T.17N, R1E	Nisqually River	Closure	8/7/51

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-040, filed 2/2/81.]

WAC 173-511-050 Ground water. Future ground water withdrawal proposals will not be affected by this chapter unless it is verified that such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-050, filed 2/2/81.]

WAC 173-511-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-060, filed 2/2/81.]

WAC 173-511-070 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriate, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) If, upon detailed analysis, appropriate and environmentally sound proposed storage facilities are found to be compatible with this chapter, such facilities may be approved.

(3) Domestic use for a single residence shall be exempt from the provisions of this chapter; provided that, if the cumulative effects of numerous single domestic diversions and/or withdrawals would seriously affect the quantity of water available for instream uses, then only

domestic in-house use shall be exempt if no alternative source is available.

(4) Stock-watering use, except that related to feed-lots, shall be exempt from the provisions established in this chapter.

(5) Future rights for nonconsumptive uses may be granted.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-070, filed 2/2/81.]

WAC 173-511-080 Future rights. No rights to divert or store public surface waters of the Nisqually River basin, WRIA 11, shall hereafter be granted, except as provided in WAC 173-511-070, which shall conflict with the purpose of this chapter as stated in WAC 173-511-020.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-080, filed 2/2/81.]

WAC 173-511-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-090, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-090, filed 2/2/81.]

WAC 173-511-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-095, filed 6/9/88.]

WAC 173-511-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-100, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-100, filed 2/2/81.]

Chapter 173-512 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--CHAMBERS-CLOVER CREEKS BASIN WATER RESOURCE INVENTORY AREA (WRIA) 12

WAC

- 173-512-010 Authority.
- 173-512-020 Purpose.
- 173-512-030 Surface water closures.
- 173-512-040 Ground water.
- 173-512-050 Future rights.
- 173-512-060 Exemptions.

- 173-512-070 Enforcement.
- 173-512-075 Appeals.
- 173-512-080 Regulation review.

WAC 173-512-010 Authority. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flow and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-010, filed 12/12/79.]

WAC 173-512-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Chambers-Clover creeks drainage basin with in-stream flows and levels necessary to provide for preservation and protection of wildlife, fish, scenic, aesthetic and other environmental values, recreational and navigational values, and to preserve water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-020, filed 12/12/79.]

WAC 173-512-030 Surface water closures. The department of ecology, having determined that further consumptive appropriations would harmfully impact in-stream values closes the following streams and lakes in Water Resource Inventory Area 12 to further consumptive appropriations:

SURFACE WATER CLOSURES

<u>Stream or Lake</u>	<u>Tributary to</u>
Chambers Creek and all tributaries, including among others: Leach Creek Flett Creek Steilacoom Lake Ponce De Leon Creek	Puget Sound Chambers Creek Chambers Creek Chambers Creek Steilacoom Lake
Clover Creek and all tributaries, including among others: North Fork Clover Creek Spanaway Creek Morey Creek Spanaway Lake Tule Lake	 Clover Creek Clover Creek Clover Creek Spanaway Creek Spanaway Creek
Unnamed Stream (Crystal Springs Creek) including tributaries Sequalitchew Creek and all tributaries, including among others: Sequalitchew Lake American Lake Murray Creek (and tributaries)	Puget Sound Puget Sound Sequalitchew Creek Sequalitchew Lake American Lake

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-030, filed 12/12/79.]

WAC 173-512-040 Ground water. In future permitting actions relating to ground water withdrawals,

the natural interrelationship of surface and ground waters shall be fully considered in water allocation decisions to assure compliance with the intent of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-040, filed 12/12/79.]

WAC 173-512-050 Future rights. No water rights for consumptive uses of waters from the streams and lakes listed in WAC 173-512-030 shall hereafter be granted. Future rights for nonconsumptive uses may be granted subject to the provisions of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-050, filed 12/12/79.]

WAC 173-512-060 Exemptions. (1) Nothing in this chapter shall affect any existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter; nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) Stock watering use, except that related to feed lots, shall be exempt from the surface water closures established in this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-060, filed 12/12/79.]

WAC 173-512-070 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-512-070, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-070, filed 12/12/79.]

WAC 173-512-075 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-512-075, filed 6/9/88.]

WAC 173-512-080 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-512-080, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-01-012 (Order 79-23), § 173-512-080, filed 12/12/79.]

**Chapter 173-513 WAC
INSTREAM RESOURCES PROTECTION
PROGRAM--DESCHUTES RIVER BASIN, WATER
RESOURCE INVENTORY AREA (WRIA) 13**

WAC

- 173-513-010 General provision.
- 173-513-020 Purpose.
- 173-513-030 Establishment of instream flows.
- 173-513-040 Surface water source limitations to further consumptive appropriations.
- 173-513-050 Ground water.
- 173-513-060 Lakes.
- 173-513-070 Exemptions.
- 173-513-080 Future rights.
- 173-513-090 Enforcement.
- 173-513-095 Appeals.
- 173-513-100 Regulation review.

WAC 173-513-010 General provision. These rules apply to waters within the Deschutes River basin, WRIA 13, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-010, filed 6/24/80.]

WAC 173-513-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Deschutes River basin with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, environmental values, recreation, navigation, and water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-020, filed 6/24/80.]

WAC 173-513-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
12.0800-00 Deschutes River	3.4 Sec. 35-18N-2W	From the confluence of the Deschutes River with Capitol Lake upstream to the Deschutes Falls at river mile 41.

(2) Instream flows established for the stream management unit described in WAC 173-513-030(1) are as follows:

INSTREAM FLOWS IN THE DESCHUTES RIVER BASIN
(in Cubic Feet per Second)

Month	Day	USGS Gage 12-0800-00 Deschutes River
Jan.	1	400
	15	400
Feb.	1	400
	15	400
Mar.	1	400
	15	400

Month	Day	USGS Gage 12-0800-00 Deschutes River
Apr.	1	350
	15	(Closed)
May	1	(Closed)
	15	(Closed)
June	1	(Closed)
	15	(Closed)
July	1	(Closed)
	15	(Closed)
Aug.	1	(Closed)
	15	(Closed)
Sept.	1	(Closed)
	15	(Closed)
Oct.	1	(Closed)
	15	(Closed)
Nov.	1	150
	15	200
Dec.	1	300
	15	400

(3) Instream flow hydrograph, as represented in the document entitled "Deschutes River basin instream resource protection program," shall be used for identification of instream flows on those days not specifically identified in WAC 173-513-030(2).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-030, filed 6/24/80.]

WAC 173-513-040 Surface water source limitations to further consumptive appropriations. (1) The department of ecology, having determined that further consumptive appropriations would harmfully impact instream values, closes the following streams and lakes to further consumptive appropriation for the periods indicated.

New Surface Water Closures

Stream or Lake Section, Township and Range of Mouth or Outlet	Tributary to	Period of Closure
Deschutes River below Deschutes Falls (river mile 41) NW1/4SW1/4 Sec. 26, T. 18N., R. 2W.	Puget Sound (Budd Inlet)	Apr. 15 to Nov. 1
Deschutes River above Deschutes Falls (river mile 41) and all tribu- taries of Deschutes River E1/2NE1/4 Sec. 10, T. 15N., R. 3E. (Deschutes Falls)		All year
McLane Creek and all tributaries SW1/4NW1/4 Sec. 33, T. 18N., R. 2W.	Puget Sound (Eld Inlet)	All year
Woodland Creek and all tributaries SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Puget Sound (Henderson Inlet)	All year
Long Lake SE1/4NE1/4 Sec. 22, T. 18N., R. 1W.	Woodland Creek	All year
Patterson Lake SE1/4SW1/4 Sec. 35, T. 18N., R. 1W.	Woodland Creek	All year
Hicks Lake NE1/4SW1/4 Sec. 27, T. 18N., R. 1W.	Woodland Creek	All year

(2) The following stream and lake low flows and closures are adopted confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

Existing Low Flow Limitations and Closures

Stream Section, Township and Range of Mouth	Tributary to	Action
Percival Creek SW1/4NE1/4 Sec. 22, T. 18N., R. 2W.	Capital Lake	Closure
Unnamed Stream NW1/4NW1/4 Sec. 33, T. 19N., R. 2W.	Puget Sound (Eld Inlet)	Low Flow (1.5 cfs)
Unnamed Stream NW1/4NW1/4 Sec. 25, T. 19N., R. 2W.	Gull Harbor	Low Flow (1.0 cfs)
Woodward Creek SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Woodward Bay	Closure

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-040, filed 6/24/80.]

WAC 173-513-050 Ground water. Future ground water withdrawal proposals will not be affected by this chapter unless it is verified that such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-050, filed 6/24/80.]

WAC 173-513-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-060, filed 6/24/80.]

WAC 173-513-070 Exemptions. (1) Nothing in this chapter shall affect water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Domestic use for a single residence and stock watering, except that use related to feedlots, shall be exempt from the provisions of this chapter if no alternative source is available. If the cumulative effects of numerous single domestic diversions would seriously affect the quantity of water available for instream uses, then only domestic in-house use shall be exempt.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-070, filed 6/24/80.]

WAC 173-513-080 Future rights. No rights to divert or store public surface waters of the Deschutes River basin, WRIA 13, shall hereafter be granted which shall conflict with the purpose of this chapter as stated in WAC 173-513-020.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-080, filed 6/24/80.]

WAC 173-513-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-090, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-090, filed 6/24/80.]

WAC 173-513-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-095, filed 6/9/88.]

WAC 173-513-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-100, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-100, filed 6/24/80.]

Chapter 173-514 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--KENNEDY-GOLDSBOROUGH WATER RESOURCE INVENTORY AREA (WRIA) 14

WAC

173-514-010	General provision.
173-514-020	Purpose.
173-514-030	Establishment of instream flows.
173-514-040	Surface water source limitations to further consumptive appropriation.
173-514-050	Lakes.
173-514-060	Exemptions.
173-514-070	Future rights.
173-514-080	Enforcement.
173-514-085	Appeals.
173-514-090	Regulation review.

WAC 173-514-010 General provision. These rules apply to waters within the Kennedy-Goldsborough water resource inventory area (WRIA 14), as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), chapter 75.20 RCW (State Fisheries Code) and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-010, filed 1/23/84.]

(1989 Ed.)

WAC 173-514-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Kennedy-Goldsborough water resource inventory area with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, and environmental values, recreation, navigation, and water quality.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-020, filed 1/23/84.]

WAC 173-514-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name Reach	Control Station By River Mile and Sec. Township, & Range	Stream Management
12-0740-00 Shumocher Creek	.02 Sec.7, T.21N., R.2WWM	From Mason Lake to headwaters including all tributaries.
WDOE-0745-50 Sherwood Creek	0.14 Sec.20, T.22N., R.1WWM	From influence of mean annual high tide at low instream flow levels to Mason Lake, including Mason Lake and all tributaries.
12-0750-00 Deer Creek	0.8 Sec.20, T.21N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
12-0755-00 Cranberry Creek	0.5 Sec.36, T.21N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Cranberry Lake, Lake Limerick and all tributaries.
12-0760-00 Johns Creek	2.5 Sec.3, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0770-50 Goldsborough Creek	0.23 Sec.20, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0775-50 Mill Creek	3.1 Sec.25, T.20N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Lake Isabella and all tributaries.
12-0780-00 Skookum Creek	3.0 Sec.19, T.19N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.
WDOE-0785-50 Kennedy Creek	0.06 Sec.32, T.19N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including Summit Lake and all tributaries.

[Title 173 WAC—p 639]

Control Station No. Stream Management Unit Name Reach	Control Station By River Mile and Sec. Township, & Range	Stream Management
WDOE-0787-00 Perry Creek	1.06 Sec.13, T.18N., R.3WWM	From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.

(2) Instream flows are established for the stream management units in WAC 173-514-030(1) as follows:

Instream Flows in the Kennedy-Goldsborough WRIA
(Instantaneous cubic feet per second)

Month	Day	12-0740-00 Shumocher Creek	WDOE 0745-50 Sherwood Creek	12-0750-00 Deer Creek
Jan	1	20	60	55
	15	20	60	55
Feb	1	20	60	55
	15	20	60	55
Mar	1	20	60	55
	15	20	60	55
Apr	1	20	60	55
	15	20	60	46
May	1	17	48	39
	15	14	37	33
Jun	1	12	29	28
	15	10	23	23.5
Jul	1	8.6	17.5	20
	15	7.2	14	20
Aug	1	6	11	20
	15	6	11	20
Sep	1	6	11	20
	15	6	11	20
Oct	1	6	11*	20*
	15	6	19*	20*
Nov	1	11	34*	33*
	15	20	60*	55*
Dec	1	20	60	55
	15	20	60	55

*Denotes closure period to all consumptive uses

Instream Flows in the Kennedy-Goldsborough WRIA
(Cont'd)
(Instantaneous cubic feet per second)

Month	Day	12-0755-00 Cranberry Creek	12-0760-00 Johns Creek	WDOE-0770-50 Goldsborough Creek
Jan	1	50	45	50
	15	50	45	50
Feb	1	50	45	50
	15	50	45	85
Mar	1	50	45	85
	15	50	45	85
Apr	1	50	45	85
	15	40	45	85
May	1	31	34	85*
	15	23.5	26	85*
Jun	1	18	20	85*
	15	14	15.5	69*
Jul	1	10.5	12	55*
	15	8	9	52*
Aug	1	8	7	48*
	15	8	7	45*
Sept	1	8	7	45*
	15	8	7	45*
Oct	1	8*	7*	45*
	15	15*	7*	50*

Month	Day	12-0755-00 Cranberry Creek	12-0760-00 Johns Creek	WDOE-0770-50 Goldsborough Creek
Nov	1	28*	18*	50
	15	50*	45*	50
Dec	1	50	45	50
	15	50	45	50

*Denotes closure period to all consumptive uses

Instream Flows in the Kennedy-Goldsborough WRIA
(Cont'd)
(Instantaneous cubic feet per second)

Month	Day	WDOE 0775-50 Mill Creek	12-0765-00 Skookum Creek	WDOE-0785-50 Kennedy Creek	WDOE-0787-00 Perry Creek
Jan	1	65	40	60	30
	15	65	40	60	30
Feb	1	65	40	60	30
	15	65	40	60	30
Mar	1	65	40	60	30
	15	65	40	60	30
Apr	1	65	40	60	21
	15	65	40	46	14
May	1	55	26*	35*	10*
	15	46	16.5*	27*	6.8*
Jun	1	40	11*	20*	4.6*
	15	33	7*	16*	3.2*
Jul	1	28	4.6*	12*	2.2*
	15	24	3*	9*	1.5*
Aug	1	20	3*	7*	1*
	15	20	3*	7*	1*
Sep	1	20	3*	7*	1*
	15	20	3*	7*	1*
Oct	1	20	3*	7*	1*
	15	20	5.6*	14*	2.5*
Nov	1	35	15	29*	5.4
	15	65	40	60*	13
Dec	1	65	40	60	30
	15	65	40	60	30

*Denotes closure period to all consumptive uses

(3) Instream flow hydrographs, as represented in the document entitled "Kennedy-Goldsborough instream resources protection program, figs. 2-7, pgs. 26-28," shall be used for identification of instream flows on those days not specifically identified in WAC 173-514-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Kennedy-Goldsborough WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-514-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream, except from those exempted uses described in WAC 173-514-060 (1) through (3).

(5) Projects that would reduce the flow in a portion of a stream's length (e.g.: Hydroelectric projects that bypass a portion of a stream) will be considered consumptive only with respect to the affected portion of the stream and will be subject to specific instream flow requirements as specified by the department for the bypassed reach notwithstanding WAC 173-514-030 (1) through (3) and 173-514-040 if detailed, project-specific instream flow studies for the bypassed reach, as

may be required, demonstrate that a different flow requirement is appropriate. The department may require the project proponent to conduct such studies.

(6) If department investigations determine that withdrawal of ground water from the source aquifers would not interfere significantly with stream flow during the period of stream closure or with maintenance of minimum flows, then applications to appropriate public ground waters may be approved and permits or certificates issued.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-030, filed 1/23/84.]

WAC 173-514-040 Surface water source limitations to further consumptive appropriation. (1) The department, having determined further consumptive appropriation for all uses would harmfully impact instream values, closes the following streams including tributaries for the period indicated:

(a) Stream Name	Tributary to	Closure Period
Alderbrook Creek	Hood Canal	May 1 - October 31
Campbell Creek	Oakland Bay	May 1 - October 31
Elson Creek	Skookum Inlet	May 1 - October 31
Fawn Lake Outlet	Skookum Inlet	May 1 - October 31
Jones Creek	Pickering Passage	May 1 - October 31
Jarrell Creek	Jarrell Cove	May 1 - October 31
Little Creek	Skookum Creek	May 1 - October 31
Melaney Creek	Oakland Bay	May 1 - October 31
Shelton Creek	Oakland Bay	May 1 - October 31
Twahnoh Creek	Hood Canal	May 1 - October 31
Uncle John Creek	Oakland Bay	May 1 - October 31

The minimum flow during the closure period on the streams listed above is the natural flow. Because insufficient flow data is available to develop instream flows outside the closure period, minimum flows for any water right application for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game (RCW 75.20.050).

(b) Stream Name	Closure Period
Kennedy Creek	May 1 - November 15
Cranberry Creek	September 16 - November 15
Deer Creek	September 16 - November 15
Johns Creek	September 16 - November 15
Sherwood Creek	September 16 - November 15
Perry Creek	May 1 - October 31

Because sufficient hydrologic data is available for the above streams, a minimum flow is established during the closed and nonclosed period in WAC 173-514-030(2).

(2) Except as noted in the footnotes, the following existing surface water source limitations, previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050 are hereby confirmed and adopted for the period indicated:

Stream*/Tributary to	Action	Period
Goldsborough Creek - Oakland Bay	Closure+	May 1 - October 31
Gosnell Creek - Isabella Lake	Low flow (10 cfs)	All year
Jarrell Creek - Jarrell Cove	Low flow@ (.30 cfs)	May 1 - October 31
Johns Creek - Oakland Bay	Low flow@ (4 cfs)	Sept. 16 - November 15
Kennedy Creek - Totten Inlet	Low flow@ (3 cfs)	May 1 - November 15
Schneider Creek - Totten Inlet	Closure#	May 1 - October 31

(1989 Ed.)

Stream*/Tributary to	Action	Period
Skookum Creek - Skookum Inlet	Closure+	May 1 - October 31
Summit Lake - Kennedy Creek	Lake level	All year
Unnamed Stream - Mill Creek Sec.34, T.20N R.3 EWM	Low flow (2 cfs)	All year

*Closures and low flow limitations also apply to tributaries of these streams.

@Superseded by a new action in this section.

#The minimum flow during the closure period is the natural flow.

+Minimum flows are specified in WAC 173-514-030(2).

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-040, filed 1/23/84.]

WAC 173-514-050 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-050, filed 1/23/84.]

WAC 173-514-060 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic and stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter. If the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for instream uses, then only single domestic in-house use shall be exempt if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-060, filed 1/23/84.]

WAC 173-514-070 Future rights. No rights to divert or store public surface waters of the Kennedy-Goldsborough WRIA 14, shall hereafter be granted which shall conflict with the purpose of this chapter.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-070, filed 1/23/84.]

WAC 173-514-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-514-080, filed 6/9/88. Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-080, filed 1/23/84.]

[Title 173 WAC—p 641]

WAC 173-514-085 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-514-085, filed 6/9/88.]

WAC 173-514-090 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-514-090, filed 6/9/88. Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 84-04-014 (Order DE 83-34), § 173-514-090, filed 1/23/84.]

**Chapter 173-515 WAC
INSTREAM RESOURCES PROTECTION
PROGRAM--KITSAP WATER RESOURCE
INVENTORY AREA (WRIA) 15**

WAC

- 173-515-010 General provision.
- 173-515-020 Purpose.
- 173-515-030 Establishment of instream flows.
- 173-515-040 Surface water closures.
- 173-515-050 Groundwater.
- 173-515-060 Lakes.
- 173-515-070 Exemptions.
- 173-515-080 Future rights.
- 173-515-090 Enforcement.
- 173-515-095 Appeals.
- 173-515-100 Regulation review.

WAC 173-515-010 General provision. These rules apply to waters within the Kitsap water resource inventory area (WRIA) 15 as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-010, filed 7/24/81.]

WAC 173-515-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Kitsap water resource inventory area (WRIA) 15 with instream flows and levels necessary to provide for preservation and protection of wildlife, fish, scenic, aesthetic and other environmental values, recreational and navigational values, and to preserve water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-020, filed 7/24/81.]

WAC 173-515-030 Establishment of instream flows. (1) The following instream flows are established for each stream listed, from the point of influence of mean high tide at low flow to the stream's headwaters including tributaries except where indicated otherwise.

Monitoring will take place at the control locations indicated.

**INSTREAM FLOWS IN THE KITSAP WATER RESOURCE
INVENTORY AREA (WRIA) 15**

*WAC 173-515-040(2) closes certain streams to additional consumptive appropriations during specific time periods. These closures are indicated by asterisks in the following table. Such closures supersede the indicated instream flow. The Union River closure extends upstream to McKenna Falls (RM 6.7).

**Stream numbers correlate with Plate I, instream resources protection program, Kitsap water resource inventory area (WRIA) 15.

Stream Number**	#7	#44	#60
Stream Name	Union River	Tahuya River	Rendsland Cr.
Gage Number	12-0635.00	12-0680.00	
River Mile	2	2.5	near mouth
Sec., Twp., Rge.	20,23N.,1W.	12,22N.,3W.	19,22N.,3W.

Month	Day	cfs	cfs	cfs
Jan.	1	65*	90	18
	15	65*	90	18
Feb.	1	65*	90	18
	15	65*	90	18
Mar.	1	59*	90	18
	15	53*	90	18
Apr.	1	48*	72	18
	15	44*	58	16
May	1	40*	47	13.5
	15	36*	38	12
June	1	33*	31	10*
	15	29*	25*	9*
July	1	27*	18*	8*
	15	24*	12*	7*
Aug.	1	22*	8.5*	6*
	15	20*	5.5*	5*
Sept.	1	20*	5.5*	5*
	15	20*	5.5*	5*
Oct.	1	20*	7*	5*
	15	20*	13*	7*
Nov.	1	27*	25	9.5
	15	35*	48	13
Dec.	1	47*	90	18
	15	65*	90	18

Stream Number**	#70	#96	#113
Stream Name	Dewatto River	Anderson Cr.	Stavis Cr.
Gage Number	12-0685.00		12-0695.00
River Mile	1.5	0.1	0.75
Sec., Twp., Rge.	23,23N.,3W.	17,24N.,2W.	25,25N.,2W.

Month	Day	cfs	cfs	cfs
Jan.	1	75	10.5	15
	15	75	10.5	15
Feb.	1	75	10.5	15
	15	75	10.5	15
Mar.	1	75	10.5	15
	15	75	10.5	15
Apr.	1	60	10.5	14
	15	49	10	13

Kitsap Area--WRIA 15

173-515-030

Stream Number** #70 #96 #113
 Stream Name Dewatto River Anderson Cr. Stavis Cr.
 Gage Number 12-0685.00 12-0695.00
 River Mile 1.5 0.1 0.75
 Sec., Twp., Rge. 23,23N.,3W. 17,24N.,2W. 25,25N.,2W.

Month Day	cfs	cfs	cfs
May 1	39	9	12
15	32	8.5	11
June 1	25	8	10
15	22*	7.5	9.5
July 1	20*	7	9
15	17.5*	6.5	8
Aug. 1	15.5*	6	7.5
15	13.5*	6	7
Sept. 1	13.5*	6	7
15	13.5*	6	7
Oct. 1	13.5*	6.5	7
15	17*	7	8.5
Nov. 1	21	8	10.5
15	39	8.5	12.5
Dec. 1	75	9.5	15
15	75	10.5	15

Stream Number** #121 #124 #192
 Stream Name Big Beef Cr. Anderson Cr. Grover's Cr.
 Gage Number 12-0695.50
 River Mile 0.25 near mouth near mouth
 Sec., Twp., Rge. 22,25N.,1W. 13,25N.,1W. 4,26N.,2E.

Month Day	cfs	cfs	cfs
Jan. 1	40	8	5.5
15	40	8	5.5
Feb. 1	40	8	5.5
15	40	8	5.5
Mar. 1	40	8	5.5
15	40	8	5.5
Apr. 1	31	8	5.5
15	24	6	4.5
May 1	18	4.5	4
15	14*	3.5	3.5
June 1	11*	3*	3*
15	8.5*	2*	2.5*
July 1	6.5*	1.5*	2.5*
15	5*	1.5*	2*
Aug. 1	4*	1*	2*
15	4*	1*	2*
Sept. 1	4*	1*	2*
15	4.5*	1*	2.5*
Oct. 1	5.5*	1.5*	3*
15	6*	1.5*	3.5*
Nov. 1	7*	2.5*	4
15	12	4.5	4.5
Dec. 1	22	8	5.5
15	40	8	5.5

Stream Number** #223 #248 #259
 Stream Name Steel Creek Strawberry/Kochs/Cooks Dickerson Cr.
 Gage Number
 River Mile near mouth near mouth Confluence with Chico Cr.
 Sec., Twp., Rge. 14,25N.,1E. 20,25N.,1E. 8,24N.,1E.

Month Day	cfs	cfs	cfs
Jan. 1	6	7	3*
15	6	7	3*
Feb. 1	6	7	3*
15	6	7	3*
Mar. 1	6	7	3*
15	6	7	3*
Apr. 1	6	7	2.5*
15	5	5.5	2.5*
May 1	4.5	4.5	2*
15	4	3.5	2*
June 1	3.5*	2.5*	1.5*
15	3*	2*	1.5*
July 1	3*	1.5*	1.5*
15	2.5*	1.5*	1.5*
Aug. 1	2.5*	1*	1*
15	2.5*	1*	1*
Sept. 1	2.5*	1*	1*
15	3*	1*	1*
Oct. 1	3.5*	1*	1*
15	4*	1.5*	1.5*
Nov. 1	4.5	2.5	1.5*
15	5	4	1.5*
Dec. 1	6	7	3*
15	6	7	3*

Stream Number** #259 #268 #294
 Stream Name Chico Cr. Gorst Cr. Curley Cr.
 Gage Number
 River Mile near mouth 0.1 0.1
 Sec., Twp., Rge. 5,24N.,1E. 32,24N.,1E. 4,23N.,2E.

Month Day	cfs	cfs	cfs
Jan. 1	15*	25	40
15	15*	25	40
Feb. 1	15*	25	40
15	15*	25	40
Mar. 1	15*	25	40
15	15*	21	40
Apr. 1	15*	18	31
15	13.5*	15	25
May 1	12*	13	20
15	11*	11	16
June 1	10*	10.5	12.5
15	9*	10	10*
July 1	8.5*	9	8*
15	8*	8.5	6.5*
Aug. 1	7.5*	8	5*
15	7*	7.5	5*
Sept. 1	7*	7.5	5*
15	7*	7.5	5*
Oct. 1	7*	8	5*
15	8*	8.5	8*

Stream Number**	#259	#268	#294
Stream Name	Chico Cr.	Gorst Cr.	Curley Cr.
Gage Number			
River Mile	near mouth	0.1	0.1
Sec., Twp., Rge.	5,24N.,1E.	32,24N.,1E.	4,23N.,2E.
Month Day	cfs	cfs	cfs
Nov. 1	9*	9	14
15	11.5*	15	23
Dec. 1	15*	25	40
15	15*	25	40

Stream Number**	#313	#321	#354
Stream Name	Olalla Cr.	Crescent Cr.	Purdy Cr.
Gage Number			12-0728.00
River Mile	near mouth	near mouth	0.1
Sec., Twp., Rge.	4,22N.,2E	32,22N.,2E.	24,22N.,1E.
Month Day	cfs	cfs	cfs
Jan. 1	13	9	7
15	13	9	7
Feb. 1	13	9	7
15	13	9	7
Mar. 1	13	9	7
15	13	9	6
Apr. 1	13	9	5.5
15	11	7.5	5
May 1	9.5	7	4.5
15	8.5	6	4
June 1	7.5*	5*	3.5*
15	6.5*	4.5*	3*
July 1	5.5*	4*	3*
15	5*	3.5*	2.5*
Aug. 1	5*	3.5*	2.5*
15	5*	3.5*	2.5*
Sept. 1	5*	3.5*	2.5*
15	6*	4*	3*
Oct. 1	7*	5*	3*
15	8*	5.5*	3.5*
Nov. 1	9	6.5	4.5
15	11	7.5	5.5
Dec. 1	13	9	7
15	13	9	7

Stream Number**	#369	#415	#425
Stream Name	Lackey Cr.	Rocky Cr.	Coulter Cr.a/
Gage Number			
River Mile	near mouth	0.1	0.1
Sec., Twp., Rge.	31,21N.,1E.	27,22N.,1W	9,22N.,1W.
Month Day	cfs	cfs	cfs
Jan. 1	5	18	18
15	5	18	18
Feb. 1	5	18	18
15	5	18	18
Mar. 1	5	18	18
15	4.5	18	18
Apr. 1	4	14.5	18
15	3.5	11.5	17
May 1	3	9	16.5
15	2.5	7.5	15.5

Stream Number**	#369	#415	#425
Stream Name	Lackey Cr.	Rocky Cr.	Coulter Cr.a/
Gage Number			
River Mile	near mouth	0.1	0.1
Sec., Twp., Rge.	31,21N.,1E.	27,22N.,1W	9,22N.,1W.
Month Day	cfs	cfs	cfs
June 1	2.5*	6*	15
15	2*	5.5*	14.5
July 1	2*	5*	13.5
15	2*	4.5*	13
Aug. 1	1.5*	4.5*	13
15	1.5*	4*	13
Sept. 1	1.5*	4*	13
15	1.5*	4*	13
Oct. 1	2*	4*	13
15	2*	5*	14
Nov. 1	2*	6	15
15	2.5*	7	16.5
Dec. 1	3	18	18
15	4	18	18

a/ Relating to the waters of Coulter Creek, the department is cognizant of a settlement agreement resulting from Cause No. 14262, in the superior court of the state of Washington for Mason County, "Peter E. Overton, et al., v. Washington Department of Fisheries, et al."

Although the department of ecology was not a party in this litigation, the department will, to the extent possible, give full consideration to the intent of the settlement agreement in any future water right actions involving said parties: *Provided*, That, said actions must be consistent with the requirements of chapters 90.03 and 90.44 RCW, and satisfy the general intent of chapter 173-515 WAC.

(2) Instream flow hydrographs, as represented in the document entitled "instream resources protection program," shall be used for definition of instream flows on those days not specifically identified in WAC 173-515-030(1).

(3) All consumptive water rights hereafter established shall be expressly subject to instream flows and closures established in WAC 173-515-030(1) and 173-515-040 (1) through (3). Closures override the instream flows where both are shown except as provided in WAC 173-515-070.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-030, filed 7/24/81.]

WAC 173-515-040 Surface water closures. (1) The department, having determined there are no waters available for further appropriation, closes the following streams to further consumptive appropriation. These closures confirm surface water source limitations previously established administratively under authority of chapter 90.03 RCW and RCW 75.20.050.

Surface Water Closures

**Stream numbers correlate with Plate I, instream resources protection program, Kitsap water resource inventory area (WRIA) 15.

Stream Number** Stream or Lake Name Sec., Twp., Rge. at Mouth	Tributary to	Date of Original Closure
Stansberry Lake and tributaries Sec. 19, T.22N., R.1E.	Carr Inlet	5-17-66
Mission Lake and tributaries Outlet: NE1/4NW1/4 Sec. 32, T.24N.,R.1W.	Mission Creek	7-19-78
#12 Mission Creek and tributaries NW1/4NE1/4 Sec. 1, T.22N., R.2W.	Hood Canal	12-5-51
#57 Unnamed Stream and tributaries Sec. 20, T.21N., R.4W.	Hood Canal	11-3-48
#117 Seabeck Creek and tributaries SE1/4SW1/4 Sec. 20, T.25N., R.1W.	Seabeck Bay	8-27-54
#158 Unnamed Stream (Gamble Creek, Christianson Creek) and tributaries SW1/4SW1/4 Sec. 20, T.27N., R.2E.	Port Gamble	8-15-75
#207 Unnamed Stream (Dogfish Creek, Harding Creek) and tributaries NE1/4NE1/4 Sec. 15, T.26N., R.1E.	Liberty Bay	8-21-75
#245 Barker Creek and tributaries SW1/4SW1/4 Sec. 22, T.25N., R.1E.	Dyes Inlet	2-21-61
#246 Clear Creek and tributaries SE1/4SW1/4 Sec. 16, T.25N., R.1E.	Dyes Inlet	7-27-53
#259 Chico Creek and tributaries above confluence of Dickerson Creek, (excluding Wildcat Lake). Sec. 5, T.24N., R.1E.	Chico Bay	11-3-52
#259 Kitsap Creek and tributaries Sec. 5, T.24N., R.1E.	Chico Creek	7-2-42
#259 Unnamed Stream and tributaries SE1/4SW1/4 Sec. 17, T.24N., R.1E.	Kitsap Lake	12-8-52
#279 Blackjack Creek and tributaries NE1/4SE1/4 Sec. 25, T.24N., R.1E.	Sinclair Inlet	4-5-60
#285 Unnamed Stream (Sullivan Creek) and tributaries NE1/4SW1/4 Sec. 19, T.24N., R.2E.	Sinclair Inlet	5-9-75
#294 Salmonberry Creek and tributaries NW1/4SE1/4 Sec. 18, T.23N., R.2E.	Long Lake	1-7-48
#356 Burley Creek and tributaries, SW1/4NW1/4 Sec. 12, T.22N., R.1E.	Burley Lagoon	5-10-51
#367 Minter Creek and tributaries SW1/4NE1/4 Sec. 29, T.22N., R.1E.	Henderson Bay	12-28-73
#402 Unnamed Stream (Dutcher Creek) and tributaries NE1/4NE1/4 Sec. 15, T.21N., R.1W.	Dutcher Cove	3-10-54
#510 Judd Creek and tributaries NE1/4NE1/4 Sec. 18, T.22N., R.3E.	Quartermaster Harbor	5-10-51

(2) The department has determined that (a) certain streams exhibit low summer flows and have a potential for drying up or inhibiting anadromous fish passage during critical life stages, and (b) historic flow regimes and current uses of certain other streams indicate that no water is available for additional appropriation. Based upon these determinations and in accordance with the general intent of RCW 75.20.050, the following streams are closed to further appropriation for the periods indicated:

New Surface Water Closures

**Stream numbers correlate with Plate I, instream resources protection program, Kitsap water resource inventory area (WRIA) 15.

Stream Number** Stream Name Sec., Twp., Rge. at Mouth	Tributary to	Period of Closure
#7 Union River and tributaries from the mouth to McKenna Falls (R.M. 6.7) SE1/4SW1/4 Sec. 29, T.23N., R.1W.	Hood Canal	All year
#44 Tahuya River and tributaries SE1/4SE1/4 Sec. 22, T.22N., R.3W.	Hood Canal	June 15-Oct. 15
#60 Rendsland Creek and tributaries NW1/4NW1/4 Sec. 19, T.22N., R.3W.	Hood Canal	June 1-Oct. 31
#70 Dewatto River and tributaries NW1/4SE1/4 Sec. 27, T.22N., R.3W.	Hood Canal	June 15-Oct. 31
#121 Big Beef Creek and tributaries SW1/4SE1/4 Sec. 15, T.25N., R.1W.	Hood Canal	May 15-Oct. 31
#124 Anderson Creek and tributaries NW1/4NW1/4 Sec. 13, T.26N., R.1W.	Hood Canal	June 1-Oct. 31
#192 Grover's Creek and tributaries NW1/4SW1/4 Sec. 4, T.26N., R.2E.	Puget Sound	June 1-Oct. 15
#223 Unnamed Stream (Steel Creek) and tributaries SE1/4SE1/4 Sec. 14, T.25N., R.1E.	Port Orchard	June 1-Oct. 15
#248 Unnamed Stream and tributaries (Strawberry/Cook's/Koch's Creek) SE1/4NE1/4 Sec. 20, T.25N., R.1E.	Dyes Inlet	June 1-Oct. 31
#259 Dickerson Creek and tributaries SW1/4NW1/4 Sec. 7, T.24N., R.1E.	Chico Creek	All year
#259 Chico Creek and tributaries below confluence of Dickerson Creek SW1/4SW1/4 Sec. 5, T.25N., R.1E.	Chico Bay	All year
#294 Curley Creek and tributaries NE1/4NE1/4 Sec. 18, T.23N., R.2E.	Yukon Harbor	June 15-Oct. 15
#313 Olalla Creek and tributaries SE1/4NE1/4 Sec. 4, T.22N., R.2E.	Colvos Passage	June 1-Oct. 15
#321 Crescent Creek and tributaries SE1/4SW1/4 Sec. 32, T. 22N., R.2E.	Gig Harbor	June 1-Oct. 15
#354 Purdy Creek and tributaries NE1/4NW1/4 Sec. 12, T.22N., R.1E.	Henderson Bay	June 1-Oct. 31

Stream Number**	Stream Name	Tributary to	Period of Closure
Sec., Twp., Rge. at Mouth			
#369	Lackey Creek and tributaries SE1/4SW1/4 Sec. 31, T.21N., R.1E.	Carr Inlet	June 1–Nov. 15
#415	Rocky Creek and tributaries SE1/4SE1/4 Sec. 27, T.22N., R.1E.	Case Inlet	June 1–Oct. 31

(3) In the Kitsap basin numerous small streams with estimated mean annual flow of 5 cfs or less have been identified as having high instream values for anadromous fish, aesthetics, water quality, and/or recreation. In accordance with the general intent of RCW 75.20-.050 the department has determined that the total natural flow of these streams is required for protection and preservation of instream resources, and that no water is available for additional consumptive appropriation. The natural flow, in effect, constitutes the minimum flow for protection of the instream resources. The following streams possess such characteristics and are therefore closed year-round to further consumptive appropriation.

New Surface Water Closures

**Stream numbers correlate with Plate I, instream resources protection program, Kitsap water resource inventory area (WRIA) 15.

Stream Number**	Stream Name	Tributary to
Sec., Twp., Rge. at Mouth		
#13	Little Mission Creek and tributaries SE1/4NW1/4 Sec. 1, T.22N., R.2W.	Hood Canal
#18	Stimson Creek and tributaries NW1/4NW1/4 Sec. 11, T.22N., R.2W.	Hood Canal
#31	Unnamed Stream (Little Shoefly Creek) and tributaries SW1/4NW1/4 Sec. 17, T.22N., R.2W.	Hood Canal
#34	Shoefly Creek and tributaries SE1/4SW1/4 Sec. 18, T.22N., R.2W.	Hood Canal
#46	Caldervin Creek and tributaries NE1/4NE1/4 Sec. 28, T.21N., R.3W.	Hood Canal
#50	Hall Creek and tributaries Sec. 20, T.21N., R.3W.	Hood Canal
#52	Hoddy Creek and tributaries Sec. 20, T.21N., R.3W.	Hood Canal
#54	Fay Creek and tributaries Sec. 21, T.20N., R.3W.	Hood Canal
#55	Brown Creek and tributaries Sec. 21, T.20N., R.3W.	Hood Canal
#56	Unnamed Stream (West Creek) and tributaries Sec. 20, T.22N., R.3W.	Hood Canal
#101	Harding Creek and tributaries NW1/4SW1/4 Sec. 9, T.24N., R.2W.	Hood Canal

Stream Number**	Stream Name	Tributary to
Sec., Twp., Rge. at Mouth		
#164	Unnamed Stream (Little Boston Creek) and tributaries SW1/4SW1/4 Sec. 5, T.27N., R.2E.	Port Gamble
#181	Unnamed Stream and tributaries SE1/4SW1/4 Sec. 26, T.27N., R.2E.	Apple Tree Cove
#184	Unnamed Stream and tributaries NE1/4SW1/4 Sec. 36, T.27N., R.2E.	Apple Tree Cove
#190	Unnamed Stream and tributaries Sec. 9, T.26N., R.2E.	Puget Sound
#196	Cowling Creek and tributaries NW1/4NW1/4 Sec. 16, T.26N., R.2E.	Miller Bay
#198	Thompson Creek and tributaries SW1/4SE1/4 Sec. 29, T.26N., R.2E.	Port Orchard
#208	Johnson Creek and tributaries SE1/4NW1/4 Sec. 22, T.26N., R.1E.	Liberty Bay
#213	Scandia Creek and tributaries SW1/4NE1/4 Sec. 27, T.26N., R.1E.	Liberty Bay
#241	Mosher Creek and tributaries SW1/4NE1/4 Sec. 34, T.25N., R.1E.	Dyes Inlet
#272	Anderson Creek and tributaries SE1/4NE1/4 Sec. 33, T.24N., R.1E.	Sinclair Inlet
#275	Ross Creek and tributaries SE1/4SE1/4 Sec. 27, T.24N., R.1E.	Sinclair Inlet
#289	Beaver Creek and tributaries NW1/4SE1/4 Sec. 16, T.24N., R.2E.	Rich Passage
#322	North Creek and tributaries NE1/4SE1/4 Sec. 6, T.21N., R.2E.	Gig Harbor
#342	Unnamed Stream and tributaries NW1/4SE1/4 Sec. 10, T.21N., R.1E.	Henderson Bay
#343	Unnamed Stream (Meyer Creek) and tributaries SW1/4SW1/4 Sec. 2, T.21N., R.1E.	Hood Canal
#407	Unnamed Stream and tributaries SE1/4NW1/4 Sec. 2, T.21N., R.1W.	Vaughn Bay
#434	Unnamed stream and tributaries SE1/4SE1/4 Sec. 15, T.25N., R.2E.	Murden Cove
#461	Unnamed Stream and tributaries SE1/4NE1/4 Sec. 20, T.25N., R.2E.	Fletcher Bay
#514	Unnamed Stream (Fisher Creek) and tributaries SW1/4NW1/4 Sec. 19, T.22N., R.3E.	Quartermaster Harbor
#530	Jod Creek and tributaries NW1/4NW1/4 Sec. 14, T.22N., R.2E.	Colvos Passage
#540	Needle Creek and tributaries NE1/4SE1/4 Sec. 13, T.23N., R.3E.	Colvos Passage

(4) Closures listed in WAC 173-515-040 (2) and (3) will supersede low flow surface water source limitations

previously imposed by administrative authority pursuant to chapter 75.20 RCW.

(5) Lakes perennially tributary to closed streams are closed to further consumptive appropriation.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-040, filed 7/24/81.]

WAC 173-515-050 Groundwater. Future groundwater withdrawal proposals will not be affected by this chapter unless it is determined that such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-050, filed 7/24/81.]

WAC 173-515-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-060, filed 7/24/81.]

WAC 173-515-070 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) If, upon detailed analysis, appropriate and environmentally sound proposed storage facilities are found to be compatible with this chapter, such facilities may be approved but will be subject to the establishment of appropriate protection flows for drought or low runoff periods.

(3) Domestic use for a single residence shall be exempt from the provisions of this chapter. If the cumulative effects of numerous single domestic diversions would seriously affect the quantity of water available for in-stream uses, then domestic in-house use shall be exempt if no alternative source is available.

(4) Stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter.

(5) Future rights for nonconsumptive uses may be granted.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-070, filed 7/24/81.]

WAC 173-515-080 Future rights. No right to divert or store public surface waters of the Kitsap water resource inventory area (WRIA) 15 shall hereafter be granted which shall conflict with the purpose of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-080, filed 7/24/81.]

(1989 Ed.)

WAC 173-515-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-515-090, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-090, filed 7/24/81.]

WAC 173-515-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-515-095, filed 6/9/88.]

WAC 173-515-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-515-100, filed 6/9/88. Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-16-003 (Order DE 80-45), § 173-515-100, filed 7/24/81.]

Chapter 173-522 WAC

WATER RESOURCES PROGRAM IN THE CHEHALIS RIVER BASIN, WRIA-22 AND 23

WAC

173-522-010	General provision.
173-522-020	Establishment of base flows.
173-522-030	Future allocation of surface water for beneficial uses.
173-522-040	Priority of future rights during times of water shortage.
173-522-050	Streams closed to further consumptive appropriations.
173-522-060	Effect on prior rights.
173-522-070	Enforcement.
173-522-080	Appeals.
173-522-090	Regulation review.

WAC 173-522-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Chehalis River basin, WRIA-22 and 23 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-522 WAC.

[Order 75-31, § 173-522-010, filed 3/10/76.]

WAC 173-522-020 Establishment of base flows. (1) Base flows are established for stream management units with monitoring to take place at certain control stations as follows:

[Title 173 WAC—p 647]

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries	Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township and Range	Affected Stream Reach Including Tributaries
12.0200.00 Chehalis River Conf. w/Elk Creek	101.8 14-13-5W	From confluence with Elk Creek to headwaters except Elk Cr.	12.0350.00 Satsop River	2.3 36-18-7W	From mouth to confl. with Dry Run Cr. on East Fk. Satsop R.
12.0205.00 Elk Creek	2.5 18-13-5W	From confluence with Chehalis River to headwaters.	12.0350.02 Chehalis R. below confl. w/Satsop R.	20.0 7-17-6W	From confluence with Porter Ck. to just below confl. with Satsop River.
12.0216.30 So. Fork Chehalis R.	0.3 24-13-4W	From mouth to headwaters.	12.0374.00 Wynoochee River	5.9 27-18-8W	From mouth to headwaters.
12.0235.00 Chehalis River	77.6 2-13-3W	From confluence with Newaukum River to confluence with Elk Cr., excluding Elk Creek, and Newaukum Rivers.	12.0380.00 Wishkah River	16.2 22-19-9W	From influence of mean annual high tide at low base flow levels to headwaters. Excluding E. Fk. Wishkah River.
12.0240.00 S. Fork Newaukum R.	22.8 28-13-1E	From confluence with Lost Creek to headwaters, excluding Lost Creek.	12.0382.90 E. Fk., Wishkah R.	0.9 36-19-9W	From mouth to headwaters.
12.0245.00 N. Fork Newaukum River	6.6 35-14-1W	From mouth to headwaters.	12.0385.00 W. Fk. Hoquiam River	9.4 14-18-10W	From mouth to headwaters.
12.0250.00 Newaukum River	4.1 9-13-2W	From mouth to confluence with Lost Cr. on S. Fork Newaukum River, excluding N. Fork Newaukum River.	12.0385.80 Middle Fk. Hoquiam R.	1.6 4-18-10W	From mouth to headwaters.
12.0253.00 Salzer Creek	3.8 22-14-2W	From mouth to headwaters.	12.0386.60 East Fork Hoquiam	7.1 8-18-9W	From mouth to headwaters.
12.0264.00 Skookumchuck River	6.4 12-15-2W	From mouth to headwaters.	12.0390.00 Humptulips River	24.8 17-20-10W	From influence of mean annual high tide at low base flow levels to headwaters.
12.0275.00 Chehalis River at Grand Mound	59.9 22-15-3W	From confluence with Newaukum River to confluence with Prairie Creek.	12.0174.00 Elk River	3.0 3-16-11W	From influence of mean annual high tide at low base flow levels to headwaters.
12.0292.00 Black River	4.1 33-16-4W	From mouth to headwaters.	12.0175.00 Johns River	6.0 21-16-10W	From influence of mean annual high tide at low base flow levels to headwaters.
12.0305.00 Cedar Creek	1.1 14-16-5W	From mouth to headwaters.	12.0180.00 Newskah Creek	3.5 32-17-9W	From influence of mean annual high tide at low base flow levels to headwaters.
12.0309.00 Porter Creek	1.3 22-17-5W	From mouth to headwaters.	12.0185.00 Charley Creek	2.0 21-17-9W	From influence of mean annual high tide at low base flow levels to headwaters.
12.0310.00 Chehalis River at Porter	33.3 28-17-5W	From confluence with Prairie Creek near Grand Mound to confluence with Porter Creek including Prairie Creek.			
12.0325.00 Cloquallum Creek	1.9 36-18-6W	From mouth to headwaters.			
12.0342.00 East Fk. Satsop R.	15.9 15-19-6W	From confluence with Dry Run Cr. to headwaters excluding Dry Run Cr.			
12.0343.00 Decker Creek	0.3 31-19-6W	From mouth to headwaters.			
12.0345.00 Middle Fk. Satsop R.	0.4 36-19-7W	From mouth to headwaters.			

(2) Base flows established for the stream management units in WAC 173-522-020(1) are as follows:

**BASE FLOWS IN THE CHEHALIS RIVER BASIN
(In Cubic Feet per Second)**

Month	Day	12.0200.00 Chehalis R. nr. Elk Cr.	12.0205.00 Elk Cr.	12.0216.30 So. Fk. Chehalis R.	12.0235.00 Chehalis R.
Jan.	1	260	100	200	700
	15	260	100	200	700
Feb.	1	260	100	200	700
	15	260	100	200	700
Mar.	1	260	100	200	700
	15	260	100	200	700
Apr.	1	260	100	200	700
	15	260	100	200	700

Chehalis River Basin--WRIA's 22 And 23

173-522-020

Month	Day	12.0200.00 Chehalis R. nr. Elk Cr.	12.0205.00 Elk Cr.	12.0216.30 So. Fk. Chehalis R.	12.0235.00 Chehalis R.
May	1	195	76	145	525
	15	146	57	105	400
June	1	108	43	75	300
	15	82	32	55	230
July	1	62	25	40	175
	15	46	19	29	130
Aug.	1	37	16	21	98
	15	31	14	15	75
Sep.	1	31	14	15	75
	15	31	14	15	75
Oct.	1	39	15	21	92
	15	49	17	28	115
Nov.	1	88	31	56	215
	15	150	56	105	390
Dec.	1	260	100	200	700
	15	260	100	200	700

Month	Day	12.0240.00 Newaukum R. S. Fork	12.0245.00 Newaukum R. N. Fork	12.0250.00 Newaukum R.	12.0253.00 Salzer Cr.
Jan.	1	125	62	250	11
	15	125	62	250	11
Feb.	1	125	62	250	11
	15	125	62	250	11
Mar.	1	125	62	250	11
	15	125	62	250	11
Apr.	1	125	62	250	11
	15	125	62	250	11
May	1	110	47	210	5.8
	15	88	36	160	2.8
June	1	70	27	118	1.4
	15	56	21	90	.73
July	1	45	16	68	.38
	15	36	12	52	.20
Aug.	1	29	9	38	.10
	15	27	7	35	.05
Sep.	1	27	7	35	.05
	15	27	7	35	.05
Oct.	1	33	8.4	43	.14
	15	40	10	54	.40
Nov.	1	58	19	91	1.35
	15	85	34	150	3.9
Dec.	1	125	62	250	11
	15	125	62	250	11

Month	Day	12.0264.00 Skookumchuck River	12.0275.00 Chehalis R. at Grand M.	12.0292.00 Black R.	12.0305.00 Cedar Cr.
Jan.	1	160	1300	200	90
	15	160	1300	200	90
Feb.	1	160	1300	200	90
	15	160	1300	200	90
Mar.	1	160	1300	200	90
	15	160	1300	200	90
Apr.	1	160	1300	200	90
	15	160	1300	200	90
May	1	160	1000	170	70
	15	130	780	145	54
June	1	103	600	120	40
	15	83	460	104	31
July	1	67	355	88	24
	15	54	275	75	19
Aug.	1	43	210	70	14
	15	35	165	66	11
Sep.	1	35	165	66	11
	15	35	165	66	11
Oct.	1	35	200	68	13.8
	15	35	250	70	17
Nov.	1	59	440	100	30
	15	96	760	140	52

Month	Day	12.0264.00 Skookumchuck River	12.0275.00 Chehalis R. at Grand M.	12.0292.00 Black R.	12.0305.00 Cedar Cr.
Dec.	1	160	1300	200	90
	15	160	1300	200	90

Month	Day	12.0309.00 Porter Cr.	12.0310.00 Chehalis R. at Porter	12.0325.00 Cloquallum Creek	12.0342.00 Satsop R. E. Fork
Jan.	1	90	2500	150	280
	15	90	2500	150	280
Feb.	1	90	2500	150	280
	15	90	2500	150	280
Mar.	1	90	2500	150	280
	15	90	2500	150	280
Apr.	1	90	2500	150	280
	15	90	2500	150	280
May	1	56	1900	118	240
	15	35	1420	92	210
June	1	29	1060	70	175
	15	24	800	55	152
July	1	21	610	43	130
	15	17	460	34	112
Aug.	1	14.2	340	29	104
	15	12	260	24	95
Sep.	1	12	260	24	86
	15	12	260	24	80
Oct.	1	13.3	320	27	80
	15	15	400	30	80
Nov.	1	28	760	52	125
	15	50	1380	88	185
Dec.	1	90	2500	150	280
	15	90	2500	150	280

Month	Day	12.0343.00 Decker Cr.	12.0345.00 Satsop R. M. Fork	12.0350.00 Satsop R. nr.	12.0350.02 Chehalis R. Satsop
Jan.	1	130	260	1100	3800
	15	130	260	1100	3800
Feb.	1	130	260	1100	3800
	15	130	260	1100	3800
Mar.	1	130	260	1100	3800
	15	130	260	1100	3800
Apr.	1	130	260	1100	3800
	15	130	260	1100	3800
May	1	115	203	910	2910
	15	103	160	750	2300
June	1	91	125	600	1750
	15	81	98	500	1360
July	1	72	78	425	1085
	15	64	61	360	860
Aug.	1	56	48	300	680
	15	50	38	260	550
Sep.	1	50	38	260	550
	15	50	38	260	550
Oct.	1	54	41	280	640
	15	58	45	300	750
Nov.	1	77	83	475	1305
	15	100	145	720	2220
Dec.	1	130	260	1100	3800
	15	130	260	1100	3800

Month	Day	12-0374.00 Wynoochee River	12-0380.00 Wishkah R.	12-0382.90 Wishkah R. E. Fk.	12-0385.00 Hoquiam R. W. Fk.
Jan.	1	560	135	33	32
	15	560	135	33	32
Feb.	1	560	135	33	32
	15	560	135	33	32
Mar.	1	560	135	33	32
	15	560	135	33	32

Month	Day	12-0374.00 Wynoochee River	12-0380.00 Wishkah R.	12-0382.90 Wishkah R. E. Fk.	12-0385.00 Hoquiam R. W. Fk.
Apr.	1	560	135	33	32
	15	560	135	33	32
May	1	560	135	33	32
	15	560	113	27	26
June	1	450	95	21	20
	15	360	80	17	16
July	1	290	68	14	12.8
	15	230	57	11.3	10
Aug.	1	185	47	9	8
	15	150	47	9	8
Sep.	1	150	47	9	8
	15	150	47	9	8
Oct.	1	150	53	10.4	9.4
	15	230	60	12	11
Nov.	1	360	91	20	19
	15	560	135	33	32
Dec.	1	560	135	33	32
	15	560	135	33	32

Month	Day	12-0175.00 Johns River	12-0180.00 Newskah Creek	12-0185.00 Charley Creek
Nov.	1	35	8.4	7.1
	15	49	17	14
Dec.	1	70	17	14
	15	70	17	14

Month	Day	12-0385.80 Hoquiam R. M. Fk.	12-0386.60 Hoquiam R. E. Fk.	12-0390.00 Humtulpis River	12-0174.00 Elk River
Jan.	1	27	44	600	50
	15	27	44	600	50
Feb.	1	27	44	600	50
	15	27	44	600	50
Mar.	1	27	44	600	50
	15	27	44	600	50
Apr.	1	27	44	600	50
	15	27	44	600	50
May	1	27	44	600	43
	15	21	38	500	37
June	1	16	33	400	31
	15	12.2	29	325	26
July	1	9.5	25	265	22
	15	7.4	22	215	19
Aug.	1	5.6	19	170	16
	15	5.6	19	170	16
Sep.	1	5.6	19	170	16
	15	5.6	19	170	16
Oct.	1	6.7	19	205	20
	15	8.0	25	250	25
Nov.	1	15	34	390	32
	15	27	44	600	40
Dec.	1	27	44	600	50
	15	27	44	600	50

Month	Day	12-0175.00 Johns River	12-0180.00 Newskah Creek	12-0185.00 Charley Creek
Jan.	1	70	17	14
	15	70	17	14
Feb.	1	70	17	14
	15	70	17	14
Mar.	1	70	17	14
	15	70	17	14
Apr.	1	70	17	14
	15	50	17	14
May	1	50	13.4	11
	15	42	10.7	8.6
June	1	35	8.3	6.7
	15	29	6.5	5.4
July	1	24	5.2	4.2
	15	21	4.1	3.3
Aug.	1	17	3.2	2.5
	15	17	2.5	2
Sep.	1	17	2.5	2
	15	17	2.5	2
Oct.	1	17	3.2	2.6
	15	24	4	3.5

(3) Base flow hydrographs, Appendix 1, pages 19-23 in the document entitled "water resources management program in the Chehalis River basin" dated November, 1975 shall be used for definition of base flows on those days not specifically identified in WAC 173-522-020(2).

(4) All rights hereafter established shall be expressly subject to the base flows established in WAC 173-522-020 (1) through (3).

(5) At such time as the departments of fisheries and/or wildlife provide specific information substantiating the need for flows higher than the flows set forth in WAC 173-522-020(2), the department of ecology agrees to proceed with setting minimum flows as provided under chapter 90.22 RCW within one year from the time of said request, unless agreement to another time frame is reached between parties.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-522-020, filed 6/9/88; Order 75-31, § 173-522-020, filed 3/10/76.]

WAC 173-522-030 Future allocation of surface water for beneficial uses. The department has determined that there are public waters available, subject to base flow, for allocation to beneficial uses from all streams within the Chehalis basin; except for those streams and times declared closed in WAC 173-522-050. The department shall maintain a current tabulation of the amount of water that is available for appropriation at each stream management unit specified under WAC 173-522-020(1).

[Order 75-31, § 173-522-030, filed 3/10/76.]

WAC 173-522-040 Priority of future rights during times of water shortage. (1) Rights established in the future pertaining to waters available for allocation in WAC 173-522-030 shall be subject to a priority of use. Rights for domestic use, including irrigation of lawn and noncommercial garden not to exceed one-half acre, and livestock use excluding feedlot operation, shall be superior to all other consumptive and nonconsumptive uses.

(2) As between rights established in the future within a priority of use, the date of priority shall control with an earlier-dated right being superior to those rights with later dates.

(3) Additional water use priorities may be promulgated, when required, in the future.

[Order 75-31, § 173-522-040, filed 3/10/76.]

WAC 173-522-050 Streams closed to further consumptive appropriations. The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following streams to

further consumptive appropriation. An exception is made for domestic and normal stockwatering where there is no alternative source of water supply.

Surface Water Closures

STREAM	DATE OF CLOSURE	PERIOD OF CLOSURE
Beaver Creek, tributary to S. Fk., Newaukum River	12-5-52	1 May-31 Oct.
Beaver Creek, tributary to Black River	10-28-52	" "
Bunker Creek	1-17-50	" "
Dempsey Creek	11-15-74	" "
Dillenbaugh Creek	8-21-72	" "
Hanaford Creek	5-7-52	" "
Hope Creek & Garrard Creek	8-28-73	" "
Kearney Creek	10-27-52	" "
Lincoln Creek	11-5-48	" "
Middle Fork, Newaukum R.	4-7-50	" "
Mill Creek	3-21-52	" "
Mox Chehalis	4-25-57	" "
Salmon Creek	12-18-56	" "
Rock Creek	4-11-73	" "
Scatter Creek	7-20-50	" "
Stearns Creek	4-28-53	" "
Wildcat Creek	10-28-52	" "
Williams Creek	5-6-52	" "
Wynoochee River	3-9-62	" "
Black River	Date of Adoption	1 July-30 Sept.
Skookumchuck River	" "	" "
S. Fk. Chehalis River	" "	" "
Salzer Creek	" "	1 June-30 Sept.

Note: Affected reach is from mouth to headwaters and includes all tributaries in the contributing drainage area unless specifically excluded.

[Order 75-31, § 173-522-050, filed 3/10/76.]

WAC 173-522-060 Effect on prior rights. Nothing in this chapter shall be construed to lessen, enlarge, or modify the existing rights acquired by appropriation or otherwise.

[Order 75-31, § 173-522-060, filed 3/10/76.]

WAC 173-522-070 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-522-070, filed 6/9/88.]

WAC 173-522-080 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-522-080, filed 6/9/88.]

WAC 173-522-090 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information,

changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-522-090, filed 6/9/88.]

Chapter 173-531A WAC

WATER RESOURCE PROGRAM FOR THE JOHN DAY-MCNARY POOLS REACH OF THE COLUMBIA RIVER, WRIA 31 AND PARTS OF WRIA'S 32, 33, 36, AND 37

WAC

- 173-531A-010 Purpose.
- 173-531A-020 Definitions.
- 173-531A-030 Existing water rights protected.
- 173-531A-040 Reservation for future irrigation use.
- 173-531A-050 Reservation for municipal use.
- 173-531A-060 Permit conditions.
- 173-531A-070 Department to review regulation.
- 173-531A-080 Enforcement.
- 173-531A-090 Appeals.

WAC 173-531A-010 Purpose. This chapter is adopted in accordance with the water resources management regulation, chapter 173-500 WAC, which was promulgated under the authority of the Water Resources Act of 1971, chapter 90.54 RCW. This chapter applies to the surface waters of the John Day and McNary Pools of the Columbia River and the Lower Snake River.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-010, filed 6/24/80. Formerly WAC 173-531-010.]

WAC 173-531A-020 Definitions. For the purposes of this chapter, the following definitions shall be used.

- (1) "Department" means the Washington state department of ecology.
- (2) "Reservation" means the designation of specific amounts of the water resources for specific future beneficial uses.
- (3) "John Day/McNary Pools Reach," means that part of the Columbia River from John Day Dam upstream to the upper limits of McNary Pool including the upper limits of the pool in the Snake River, the Yakima River, and the Walla Walla River. This reach extends from river mile 216 to river mile 352 of the Columbia River, and includes the lower 10 miles of the Snake River, the lower 6 miles of the Yakima River, and the lower 9 miles of the Walla Walla River.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-020, filed 6/24/80. Formerly WAC 173-531-020.]

WAC 173-531A-030 Existing water rights protected. Nothing in the chapter shall be construed to lessen, enlarge, or modify existing rights acquired by appropriation or by other means, including federal reserved rights.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-030, filed 6/24/80. Formerly WAC 173-531-030.]

WAC 173-531A-040 Reservation for future irrigation use. (1) One million three hundred twenty thousand acre-feet per year are hereby reserved from the John Day/McNary Pools reach to provide a water supply for the 330,000 acres of irrigation projected to be developed by the year 2020. The 330,000 acres includes lands under existing water right permits, pending applications and land for which appropriation applications have not yet been filed.

(2) The priority dates of existing permits and applications already on file covered by the reservation are the dates of filing with the department. The priority dates of permits issued under applications filed in the future under the reservation shall be the effective date of this regulation (see RCW 90.03.345).

(3) Waters represented by canceled or relinquished applications and permits will still be considered reserved and may be subsequently filed on by interested appropriators.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-040, filed 6/24/80. Formerly WAC 173-531-040.]

WAC 173-531A-050 Reservation for municipal use.

(1) Twenty-six thousand acre-feet of water per year is reserved from the John Day/McNary Pools reach to provide for future municipal supply to the year 2020.

(2) The reservation for municipal use does not guarantee any existing or future supply entity a specific quantity of water. Municipal water supply utilities must petition the department for reservation of water, for their particular needs, according to procedures of chapter 173-590 WAC.

(3) The priority dates of water right filings under the municipal reservation shall be the effective date of this regulation.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-050, filed 6/24/80. Formerly WAC 173-531-050.]

WAC 173-531A-060 Permit conditions. All permits issued for waters reserved under WAC 173-531A-040 or 173-531A-050 after the effective date of this chapter shall be subject to the provisions of chapter 173-563 WAC - instream resources protection program for the main stem of the Columbia River.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-060, filed 6/24/80. Formerly WAC 173-531-060.]

WAC 173-531A-070 Department to review regulation. (1) The department, in accordance with applicable statutory provisions, shall review the reservations for future irrigation use and future municipal use at least every five years after adoption of this management regulation.

(2) In reviewing the reservations, the department will evaluate the account of water rights established under the reservations as provided in WAC 173-531A-040(3)

[Title 173 WAC—p 652]

and 173-531A-050(2). The department will also evaluate and update the accounts of ground water development and use on lands relating to the reserved waters and reduce the reserved amounts of surface water.

[Statutory Authority: Chapter 90.54 RCW. 80-08-022 (Order DE 80-19), § 173-531A-070, filed 6/24/80.]

WAC 173-531A-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-531A-080, filed 6/9/88.]

WAC 173-531A-090 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-531A-090, filed 6/9/88.]

Chapter 173-532 WAC

WATER RESOURCES PROGRAM FOR THE WALLA WALLA RIVER BASIN, WRIA 32

WAC

173-532-010	Purpose.
173-532-020	Definitions.
173-532-030	Base flows.
173-532-040	Streams closed to further consumptive appropriations.
173-532-050	Protection of surface water rights from new appropriators of ground water.
173-532-060	Designation of ground water areas for specific uses.
173-532-070	Closure of ground water aquifer to further appropriation.
173-532-080	Evaluation of ground water applications.
173-532-090	Enforcement.
173-532-100	Appeals.
173-532-110	Regulation review.

WAC 173-532-010 Purpose. This regulation is adopted in accordance with the water resources management regulation, chapter 173-500 WAC, which was promulgated under the authority of the Water Resources Act of 1971, chapter 90.54 RCW. This chapter, including any amendments, applies to all waters that lie within or contribute to the Walla Walla River drainage basin. This chapter sets forth the department's policies to manage the basin's water resources.

[Order DE 77-30, § 173-532-010, filed 12/14/77.]

WAC 173-532-020 Definitions. For purposes of this chapter, the following definitions shall be used.

(1) "Allocation" means the designating of specific amounts of the water resource for specific beneficial uses.

(2) "Base flow" means a level of stream flow established in accordance with provisions of chapter 90.54 RCW required in perennial streams to preserve wildlife,

fish, scenic, aesthetic, and other environmental and navigational values.

(3) "Consumptive use" means use of water whereby there is discernible diminishment of the water source.

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

(5) "Director" means the director of the department of ecology.

(6) "Domestic use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn and garden per dwelling, and other incidental household uses.

(7) "In-house domestic use" means use of water for drinking, cleaning, sanitation, and other uses in a residence, excluding irrigation of lawn and garden.

(8) "Municipal water supply system" means a set of facilities including source, treatment, storage, transmission and distribution facilities whereby water is furnished for commercial and/or industrial uses, and public water supplies with 10 or more connections.

(9) "Nonconsumptive use" means a type of water use where either there is no diversion from a source body, or where there is no discernible diminishment of the source.

(10) "Perennial stream" means a stream with a natural flow which is normally continuous at any given location.

(11) "Public water supply" means any water supply intended or used for human consumption and community uses.

(12) "Water right" means a right to make beneficial use of public waters of the state.

(13) "Zone of direct hydraulic continuity" means that zone of inter action between the surface water stream and the adjacent ground water whereby a pumping well can effectively reduce the flow in the stream to the detriment of surface water users, as determined by the department.

[Order DE 77-30, § 173-532-020, filed 12/14/77.]

WAC 173-532-030 Base flows. The establishment of base flows for surface streams will be deferred until such time as storage project or projects become a reality. At present, all surface streams are totally appropriated during the irrigation season and water is not available for protection of instream values. With the advent of future storage projects, the department may establish base flows which can be included as project benefits and maintained by storage releases.

[Order DE 77-30, § 173-532-030, filed 12/14/77.]

WAC 173-532-040 Streams closed to further consumptive appropriations. The department has determined that no waters are available for consumptive appropriation through the establishment of water rights for the following streams for the periods indicated:

TABLE II-1
SURFACE WATER CLOSURES*

STREAM NAME	AFFECTED REACH	EFFECTIVE DATE OF CLOSURE	PERIOD OF CLOSURE
Blue Creek	Mouth to Headwaters	Date of Adoption	June 1 - Oct. 31
Mill Creek	Mouth to State Line	2-6-1957	May 1 - Oct. 1
Walla Walla River	Mouth to State Line	Date of Adoption	May 1 - Nov. 30
Dry Creek	Mouth to Headwaters	Date of Adoption	April 15 - Nov. 15 or whenever Walla Walla at USGS Gage 14.0185 drops below 91.0 cfs.
Touchet River	Mouth to Headwaters	Date of Adoption	June 1 - Oct. 31
Copei Creek	Mouth to Headwaters	Date of Adoption	April 1 - Nov. 10
Doan Creek	Mouth to Headwaters	Date of Adoption	June 1 - Oct. 1
Mud Creek	Mouth to Headwaters	Date of Adoption	May 1 - Oct. 31 or whenever Walla Walla below confluence with Mud Creek falls below 50 cfs.
Pine Creek	Mouth to Headwaters	Date of Adoption	May 1 - Oct. 31 or whenever Walla Walla River at confluence with Pine Creek or below Touchet River drops below 50 cfs.
Stone Creek	Mouth to Headwaters	Date of Adoption	May 1 - Oct. 31

*Exception for single-domestic and stock water where no other practical source is available.

[Order DE 77-30, § 173-532-040, filed 12/14/77.]

WAC 173-532-050 Protection of surface water rights from new appropriators of ground water. New appropriators of ground water will be required to locate wells outside of the zone of direct hydraulic continuity between the surface water stream and the ground water aquifer. The actual limits of the zone of direct hydraulic continuity at a specific location will be determined by the department after an individual ground water application is received. The department will use accepted engineering methods for its determination.

[Order DE 77-30, § 173-532-050, filed 12/14/77.]

WAC 173-532-060 Designation of ground water areas for specific uses. A portion of the ground water resource in the Walla Walla-College Place vicinity is designated for the anticipated growth of the community. Within the following area, ground water in the basalt aquifer is limited to appropriation for municipal water supply systems only, and ground water in the shallow

gravel aquifer is limited to uses other than municipal water supply systems:

All the area contained within the following listed sections: Sections 35 and 36, T8N, R35E; sections 1, 2, 11, 12, 13, 14, 15, 23, 24, 25, 26, 27, 28, 34, 35, and 36, T7N, R35E; sections 1, 2, 3, 10, 11, 12, and all of 13, 14, and 15 lying within Washington state, T6N, R35E; sections 31, 32, 33, 34, 35, and 36, T8N, R36E; all the area within T7N, R36E; all the area within T6N, R36E lying within the state of Washington; section 31, T8N, R37E; sections 6, 7, 18, 19, 30, and 31, T7N, R37E; and sections 6, 7, and all of section 18 lying within Washington state, T6N, R37E.

The provisional designation of water in the basalt aquifer for municipal water supply systems shall be effective for a period from February 1, 1978 to October 1, 1984. After October 1, 1984, all designated waters not appropriated or reserved under chapter 173-590 WAC reservation of water for future public water supply, shall be open for appropriations by other users as determined by the department.

The designation of water in the gravel aquifer for users other than municipal water supply systems shall remain indefinitely until changed by the department.

[Statutory Authority: RCW 90.54.050, 83-02-039 (Order DE 82-46), § 173-532-060, filed 12/30/82; Order DE 77-30, § 173-532-060, filed 12/14/77.]

WAC 173-532-070 Closure of ground water aquifer to further appropriation. When the department determines that annual ground water withdrawals from the basalt aquifer have reached 125,000 acre-feet, which is approximately 95 percent of the average annual recharge to that aquifer, the aquifer will be closed to further appropriation.

[Order DE 77-30, § 173-532-070, filed 12/14/77.]

WAC 173-532-080 Evaluation of ground water applications. Each new application for ground water appropriation will be evaluated to minimize interference with existing wells and with adjacent surface water streams. The department will issue permits for ground water withdrawal in those cases where senior surface water and ground water rights will not be adversely affected as determined by the department.

[Order DE 77-30, § 173-532-080, filed 12/14/77.]

WAC 173-532-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-532-090, filed 6/9/88.]

[Title 173 WAC—p 654]

WAC 173-532-100 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-21B RCW.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-532-100, filed 6/9/88.]

WAC 173-532-110 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-532-110, filed 6/9/88.]

Chapter 173-545 WAC

INSTREAM RESOURCES PROTECTION PROGRAM--WENATCHEE RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 45

WAC

173-545-010	General provision.
173-545-020	Purpose.
173-545-030	Establishment of instream flows.
173-545-040	Stream closure.
173-545-050	Policy statement for future permitting actions.
173-545-060	Lakes.
173-545-070	Exemptions.
173-545-080	Future rights.
173-545-090	Enforcement.
173-545-095	Appeals.
173-545-100	Regulation review.

WAC 173-545-010 General provision. These rules apply to waters within the Wenatchee River basin, WRIA 45, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), chapter 75.20 RCW (state fisheries code) and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-010, filed 6/3/83.]

WAC 173-545-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Wenatchee River basin with instream flows and levels necessary to provide protection for wildlife, fish, scenic, aesthetic, and environmental values, recreation, navigation, and water quality.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-020, filed 6/3/83.]

WAC 173-545-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station by River Mile and Section, Township, and Range	Affected Stream Reach(es) including Tributaries
12-4570.00 Wenatchee River at Plain	46.2 Sec. 12, T. 26N., R. 17E. W.M	From Plain Road Bridge, R.M. 46.2, to headwaters
12-4585.00 Icicle Cr. near Leavenworth	1.5 Sec. 24, T. 24N., R. 17E. W.M	Headwaters of Icicle Creek to its mouth
12-4590.00 Wenatchee River at Peshastin	21.5 Sec. 8, T. 24N., R. 18E. W.M	From confluence of Derby Creek to Plain Road Bridge, R.M. 46.2 excluding Derby Creek and Icicle Creek
12-4625.00 Wenatchee River at Monitor	7.0 Sec. 11, T. 23N., R. 19E. W.M	From mouth to confluence of Derby Creek, including Derby Creek and excluding Mission Creek
12-4620.00 Mission Creek near Cashmere	1.5 Sec. 8, T. 23N., R. 19E. W.M	From mouth to headwaters

Month	Day	12-4620.00 Mission Cr. near Cashmere	12-4625.00 Wenatchee R. at Monitor
May	1	40	2200
	15	40	2800
Jun	1	28	3500
	15	20	2400
Jul	1	14	1700
	15	10	1200
Aug	1	7	800
	15	5	700
Sep	1	4	700
	15	4	700
Oct	1	4	700
	15	5	700
Nov	1	6	800
	15	6	800
Dec	1	6	800
	15	6	800

(2) Instream flows are established for the stream management units in WAC-173-545-030(1) as follows:

Instream Flows in the Wenatchee River basin (instantaneous cubic feet per second)

Month	Day	12-4570.00 Wenatchee R. at Plain	12-4580.00 Icicle Cr. near Leavenworth	12-4590.00 Wenatchee R. at Peshastin
Jan	1	550	120	700
	15	550	120	700
Feb	1	550	120	700
	15	550	120	700
Mar	1	550	150	750
	15	700	170	940
Apr	1	910	200	1300
	15	1150	300	1750
May	1	1500	450	2200
	15	2000	660	2800
Jun	1	2500	1000	3500
	15	2000	660	2600
Jul	1	1500	450	1900
	15	1200	300	1400
Aug	1	880	200	1000
	15	700	170	840
Sep	1	660	130	820
	15	620	130	780
Oct	1	580	130	750
	15	520	130	700
Nov	1	550	150	750
	15	550	150	750
Dec	1	550	150	750
	15	550	150	750

Instream Flows in the Wenatchee River basin (cont'd) (instantaneous cubic feet per second)

Month	Day	12-4620.00 Mission Cr. near Cashmere	12-4625.00 Wenatchee R. at Monitor
Jan	1	6	820
	15	6	820
Feb	1	6	820
	15	6	800
Mar	1	6	800
	15	11	1040
Apr	1	22	1350
	15	40	1750

(3) Instream flow hydrographs, as represented in the document entitled "Wenatchee River basin instream resources protection program, figs. 7, 8, 9, pgs. 30 and 31," shall be used for identification of instream flows on those days not specifically identified in WAC 173-545-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water from the main stem Wenatchee River and perennial tributaries shall be expressly subject to instream flows established in WAC 173-545-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream, except for those exemptions described in WAC 173-545-070 (1) through (3).

(5) Projects that would reduce the flow in a portion of a stream's length (e.g.: hydroelectric diversion projects) will be considered consumptive with respect to the bypassed portion of the stream and will be subject to specific instream flow requirements as specified by the department for the bypassed reach notwithstanding WAC 173-545-030(1) through (3). The department may require detailed, project-specific instream flow studies to determine a specific instream flow for the bypassed reach.

(6) If department investigations determine that withdrawal of ground water from the source aquifers would not interfere significantly with stream flow during the period of stream closure or with maintenance of minimum flows, then applications to appropriate public ground waters may be approved and permits or certificates issued.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-030, filed 6/3/83.]

WAC 173-545-040 Stream closure. The department has determined that additional diversions of water from Peshastin Creek during the period June 15 to October 15 would deplete instream flows required to protect instream values. Peshastin Creek is, therefore, closed to further consumptive appropriation from June 15 to October 15 each year. During the nonclosed period, minimum instream flows will be controlled and measured from the control station on the Wenatchee River at Monitor.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-040, filed 6/3/83.]

WAC 173-545-050 Policy statement for future permitting actions. Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate base flow in all streams and rivers as well as the water levels in all lakes in the Wenatchee River basin by encouraging the use of alternate sources of water which include (1) ground water, (2) storage water, or (3) purchase of other valid water rights.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-050, filed 6/3/83.]

WAC 173-545-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-060, filed 6/3/83.]

WAC 173-545-070 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Future requests for group domestic uses, including municipal supply, may be exempted from the minimum instream flow provisions of this chapter when it is determined by the department, in consultation with the departments of fisheries and game, that overriding considerations of the public interest will be served.

(3) Single domestic and stockwatering use, except that related to feedlots, shall be exempt from the provisions established in this chapter. If the cumulative impacts of numerous single domestic diversions would significantly affect the quantity of water available for instream uses, then only single domestic in-house use shall be exempt if no alternative source is available.

(4) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-070, filed 6/3/83.]

WAC 173-545-080 Future rights. No rights to divert or store public surface waters of the Wenatchee River basin, WRIA 45, shall hereafter be granted which shall conflict with the purpose of this chapter.

[Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-080, filed 6/3/83.]

WAC 173-545-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it,

[Title 173 WAC—p 656]

including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-545-090, filed 6/9/88. Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-090, filed 6/3/83.]

WAC 173-545-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-545-095, filed 6/9/88.]

WAC 173-545-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-545-100, filed 6/9/88. Statutory Authority: Chapters 90.54, 90.22 and 75.20 RCW. 83-13-016 (Order DE 83-8), § 173-545-100, filed 6/3/83.]

Chapter 173-548 WAC

WATER RESOURCES PROGRAM IN THE METHOW RIVER BASIN, WRIA 48

WAC

173-548-010	General provision.
173-548-020	Establishment of base flows.
173-548-030	Future allocations—Reservation of surface water for beneficial uses.
173-548-040	Priority of future water rights during times of water shortage.
173-548-050	Streams and lakes closed to further consumptive appropriations.
173-548-060	Ground water.
173-548-070	Effect on prior rights.
173-548-080	Enforcement.
173-548-090	Appeals.
173-548-100	Regulation review.

WAC 173-548-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Methow River basin, WRIA 48 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-548 WAC.

[Order DE 76-37, § 173-548-010, filed 12/28/76.]

WAC 173-548-020 Establishment of base flows. (1) Base flows are established for stream management units with monitoring to take place at certain control points as follows:

Stream Management Unit Information

PART 1

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach (includes tributaries)	Month	Day	Lower Methow (12.4499.50)	Middle Methow (12.4495.00)	Upper Methow (12.4473.89)
<u>Lower Methow</u> Methow R. nr. Pateros (12.4499.50)	6.7 20-30-23E	Methow River confluence with Wells Pool to confluence with Twisp River.	Jan.	1	350	260	120
				15	350	260	120
			Feb.	1	350	260	120
				15	350	260	120
			Mar.	1	350	260	120
				15	350	260	120
<u>Middle Methow</u> Methow R. nr. Twisp (12.4495.00)	40.0 17-33-22E	Methow River from confluence with Twisp River to confluence with Chewack River.	Apr.	1	590	430	199
				15	860	650	300
			May	1	1,300	1,000	480
				15	1,940	1,500	690
			Jun.	1	2,220	1,500	790
				15	2,220	1,500	790
<u>Upper Methow</u> Methow R. nr. Winthrop (12.4473.89)	50.2 2-34-21E	Methow River from confluence with Chewack River to confluence with Little Boulder Creek and including Little Boulder Creek.	Jul.	1	2,150	1,500	694
				15	800	500	240
			Aug.	1	480	325	153
				15	300	220	100
			Sep.	1	300	220	100
				15	300	220	100
<u>Methow Headwaters</u> Methow R. at Little Boulder Cr. (12.4473.83)	65.3 25-36-19E	Methow River from confluence with Little Boulder Creek to headwaters.	Oct.	1	360	260	122
				15	425	320	150
			Nov.	1	425	320	150
				15	425	320	150
			Dec.	1	390	290	135
				15	350	260	120

PART 2

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach (includes tributaries)	Month	Day	Methow Headwaters (12.4473.83)	Early Winters Creek	Chewack River (12.4475.00)	Twisp River (12.4489.98)
<u>Early Winters Creek</u> Early Winters Cr. near Mazama	27-36-19E	Early Winters Creek from confluence with Methow River to headwaters.	Jan.	1	42	10	56	34
				15	42	10	56	34
			Feb.	1	42	10	56	34
				15	42	10	56	34
			Mar.	1	42	10	56	34
				15	42	10	56	34
<u>Chewack River</u> Chewack R. nr. Boulder Creek (12.4475.00)	8.7 35-36-21E	Chewack River confluence with Methow River to headwaters.	Apr.	1	64	14	90	60
				15	90	23	140	100
			May	1	130	32	215	170
				15	430	108	290	300
			Jun.	1	1,160	290	320	440
				15	1,160	290	320	440
<u>Twisp River</u> Twisp R. nr. Twisp (12.4489.98)	0.3 7-33-22E	Twisp River from confluence with Methow River to headwaters.	Jul.	1	500	125	292	390
				15	180	45	110	130
			Aug.	1	75	20	70	58
				15	32	8	47	27
			Sep.	1	32	8	47	27
				15	32	8	47	27
			Oct.	1	45	11	56	35
				15	60	15	68	45
			Nov.	1	60	15	68	45
				15	60	15	68	45
			Dec.	1	51	12	62	39
				15	42	10	56	34

(2) Base flows established for the stream management units in WAC 173-548-020(1) are as follows:

**Base Flows in the Methow River
(All Figures in Cubic Feet Per Second)**

[CODIFICATION NOTE: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specification for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column. The table as codified has been divided into two tables with Part 1 covering the Lower Methow, Middle Methow and Upper Methow and with Part 2 covering the Methow Headwaters, Early Winters Creek, Chewack River and Twisp River.]

(3) Base flow hydrographs, as represented in Figure 1 in the document entitled "water resources management program, Methow River basin" dated 1976, shall be used for definition of base flows on those days not specifically identified in WAC 173-548-020(2) and 173-548-030.

(4) All rights hereafter established shall be subject to the base flows established in WAC 173-548-020(1)

through (3), except as provided under WAC 173-548-030 herein.

(5) Future appropriations of water which would conflict with base flows shall be authorized, by the director, only in those situations when it is clear that overriding considerations of the public interest will be served.

[Order DE 76-37, § 173-548-020, filed 12/28/76.]

WAC 173-548-030 Future allocations--Reservation of surface water for beneficial uses. (1) The department determines that there are surface waters available for appropriation from the stream management units specified in the amount specified in cubic feet per second (cfs) during the time specified as follows:

(a) Maximum surface water available for future allocation from the indicated reach is as follows:

Month	Lower Methow	Middle Methow	Upper Methow	Methow Headwaters	Early Winters Creek	Chewack River	Twisp River
Oct.	95	50	44	15	29	09	14
Nov.	116	101	46	06	21	10	15
Dec.	112	99	44	17	26	10	15
Jan.	50	36	26	08	19	03	09
Feb.	51	37	29	09	19	04	10
Mar.	147	139	80	38	19	24	18
Apr.	565	590	273	336	35	118	148
May	2,922	2,927	784	412	403	809	703
Jun.	3,116	2,853	1,017	1,249	294	1,292	890
Jul.	965	877	583	608	189	308	298
Aug.	214	192	203	109	94	70	70
Sep.	62	55	76	33	47	23	26

All figures in cubic feet per second.

(b) The control station for each reach is defined in WAC 173-548-020.

(c) The appropriation limit is set forth to be an amount equal to the one in two year natural reach discharge on a monthly basis for all management reaches except Early Winters Creek. The appropriation limit for Early Winters Creek is set forth to be an amount equal to the estimated natural mean monthly streamflow for that stream.

(2) The amounts of water referred to in WAC 173-548-030(1) above are allocated for beneficial uses in the future as follows:

(a) Allocation of surface waters by use category (April through September):

Use Description	Apr.	May	Jun.	Jul.	Aug.	Sep.
Lower Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	860	1,940	2,220	800	300	300
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Middle Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	650	1,500	1,500	500	220	220
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

[Title 173 WAC—p 658]

Use Description	Apr.	May	Jun.	Jul.	Aug.	Sep.
Upper Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	300	690	790	240	100	100
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Methow Headwaters						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	90	430	1,160	180	32	32
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Early Winters Creek						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	23	108	290	45	8.0	11.0
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Chewack River						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	140	290	320	110	47	47
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Twisp River						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	100	300	440	130	27	27
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

All figures in cubic feet per second

(b) Allocation of surface waters by use category (October through March):

Use Description	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
Lower Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	425	425	350	350	350	350
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Middle Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	320	320	260	260	260	260
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

Use Description	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
Upper Methow						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	150	150	120	120	120	120
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Methow Headwaters						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	60	60	42	42	42	42
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Early Winters Creek						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	15	15	10	10	10	10
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Chewack River						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	68	68	56	56	56	56
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					
Twisp River						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	45	45	34	34	34	34
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(c)					

All figures in cubic feet per second.

(c) Allocations presented in this section do not limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or base flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(d) As the amount of water allocated for each category of use approaches the amount available for future allocation set forth in WAC 173-548-030(1), the department shall review the program to determine whether there is a need for program revision.

[Order DE 76-37, § 173-548-030, filed 12/28/76.]

WAC 173-548-040 Priority of future water rights during times of water shortage. (1) As between rights established in the future pertaining to waters allocated in WAC 173-548-030 (2)(a) and (b), all rights subject to this program shall be regulated in descending order of use category priority regardless of the date of the priority of right.

(2) As between rights established in the future within a single use category allocation of WAC 173-548-030, the date of priority shall control with an earlier dated right being superior to those rights with later dates.

[Order DE 76-37, § 173-548-040, filed 12/28/76.]

WAC 173-548-050 Streams and lakes closed to further consumptive appropriations. The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following streams and lakes to further consumptive appropriation for the periods indicated, with exceptions as noted:

(a) STREAM CLOSURES

Stream Name (Includes Tributaries)	Affected Reach	Period Closure
Wolf Creek	Mouth to Headwaters	Closed all year**
Bear Creek (Davis Lake)	"	Closed all year
Thompson Creek	"	Closed all year**
Beaver Creek	"	Closed May 1 to Oct. 1**
Alder Creek	"	Closed all year
Benson Creek	"	Closed all year**
Texas Creek	"	Closed all year
Libby Creek	"	Closed May 1 to Oct. 1**
Cow Creek	"	Closed May 1 to Oct. 1
Gold Creek	"	Closed May 1 to Oct. 1*/**
McFarland Creek	"	Closed May 1 to Oct. 1
Squaw Creek	"	Closed May 1 to Oct. 1
Black Canyon Creek	"	Closed May 1 to Oct. 1
French Creek	"	Closed May 1 to Oct. 1*/**

*Exception for single domestic and stock water.

**Exception for water developed solely from added storage capacity within the basin.

(b) LAKE CLOSURES

All lakes not listed below are restricted to rights to divert water for single domestic and stock watering purposes only, as appropriate:

Name	Location
Alta Lake	3 mi. SW of Pateros
Black Lake	25 mi. N of Winthrop
Black Pine Lake	9 mi. SW of Twisp
Crater Lake	10 mi. W of Carlton
Davis Lake	Bear Creek Drainage
Eagle Lake	11 mi. SW of Carlton
French Creek	Sec.28, T.31N., R.23E.
Libby Lake	10 mi. W of Carlton
Louise Lake	20 mi. W of Winthrop
Middle Oval Lake	16 mi. W of Carlton
North Lake	20 mi. W of Winthrop
Patterson Lake	Sec.8, T.34N., R.21E.
Pearrygin Lake	Sec.36, T.35N., R.21E.
Slate Lake	14 mi. W of Winthrop
Sunrise Lake	16 mi. W of Methow
Upper Eagle Lake	12 mi. W of Carlton
West Oval Lake	16 mi. W of Carlton

The development of future impoundments creating new lakes is provided for under WAC 173-548-050(a).

[Order DE 76-37, § 173-548-050, filed 12/28/76.]

WAC 173-548-060 Ground water. If it is determined that a future development of ground water measurably affects surface waters subject to the provisions of chapter 173-548 WAC, then rights to said ground water shall be subject to the same conditions as affected surface waters.

[Order DE 76-37, § 173-548-060, filed 12/28/76.]

WAC 173-548-070 Effect on prior rights. Nothing in this chapter shall be construed to lessen, enlarge, or modify existing rights acquired by appropriation or otherwise, and legally vested prior to the effective date of this chapter.

[Order DE 76-37, § 173-548-070, filed 12/28/76.]

WAC 173-548-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-548-080, filed 6/9/88.]

WAC 173-548-090 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-.21B RCW.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-548-090, filed 6/9/88.]

WAC 173-548-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-548-100, filed 6/9/88.]

Chapter 173-549 WAC

WATER RESOURCES PROGRAM IN THE OKANOGAN RIVER BASIN, WRIA 49

WAC

173-549-010	General provision.
173-549-015	Purpose.
173-549-016	Definition.
173-549-020	Establishment of minimum instream flows.
173-549-025	Stream closures.
173-549-027	Policy statement for future permitting actions.
173-549-035	Lakes.
173-549-060	Ground water.
173-549-070	Effect on prior rights and exemptions.
173-549-080	Future rights.
173-549-090	Enforcement.
173-549-095	Appeals.

[Title 173 WAC—p 660]

173-549-100	Regulation review.
173-549-900	Minimum instream flow hydrographs.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-549-030	Future allocations—Reservation of surface water for beneficial uses. [Order DE 76-25, § 173-549-030, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.
173-549-040	Priority of future water rights during times of water shortage. [Order DE 76-25, § 173-549-040, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.
173-549-050	Streams and lakes closed to further consumptive appropriations. [Order DE 76-25, § 173-549-050, filed 7/14/76.] Repealed by 84-13-076 (Order DE 84-15), filed 6/20/84. Statutory Authority: Chapters 90.54 and 90.22 RCW.

WAC 173-549-010 General provision. These rules apply to waters within the Okanogan River Basin (WRIA 49) as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (the Water Resources Act of 1971) and chapter 90.22 RCW (Minimum water flows and levels) and in accordance with chapter 173-500 WAC (Water resources management program).

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-010, filed 6/20/84; Order DE 76-25, § 173-549-010, filed 7/14/76.]

WAC 173-549-015 Purpose. Chapter 90.54 RCW (the Water Resources Act of 1971) requires that utilization and management of the waters of the state shall be guided by a number of fundamentals, including the following:

"(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial." (RCW 90.54.020(1).)

The act further specifies that "Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values." (RCW 90.54.020 (3)(a).)

The purpose of this chapter is to satisfy the requirements of RCW 90.54.020 (3)(a) while, at the same time, allowing the continued use of water for other beneficial uses such as agriculture, which is acknowledged as a vital activity greatly benefiting the citizens of the Okanogan Basin and the state of Washington.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-015, filed 6/20/84.]

WAC 173-549-016 Definition. For the purposes of this chapter, the term minimum instream flow shall be

synonymous with the term base flow as defined in chapter 90.54 RCW and the term minimum flow as defined in chapter 90.22 RCW.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-016, filed 6/20/84.]

WAC 173-549-020 Establishment of minimum instream flows. (1) Minimum instream flows are established for stream management units with monitoring to take place at certain control points as follows:

Stream Management Unit Information

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach
Lower Okanogan		
Okanogan R. at Malott (12447200)	17.0, 9-32-25E	Okanogan River confluence with Wells Pool to confluence of Chewiliken Cr.
Middle Okanogan		
Okanogan R. nr. Tonasket (12445000)	50.8, 8-36-27E	Okanogan River confluence of Chewiliken Creek to confluence Similkameen River
Upper Okanogan		
Okanogan R. at Oroville (12439500)	77.3, 27-40-27E	Okanogan River confluence of Similkameen River to Osoyoos Lake
Similkameen		
Similkameen R. at Nighthawk (12442500)	15.8, 7-40-26E	Similkameen River confluence with Okanogan River to Canadian Border

(2) Minimum instream flows established for the stream management units in WAC 173-549-020(1) are as follows:

Minimum Instream Flows in the Okanogan River (All Figures in Cubic Feet Per Second)

Month	Day	Lower Okanogan 12447200	Middle Okanogan 1244500	Upper Okanogan 124426000	Similkameen 12439500
Jan.	1	860	800	320	400
	15	830	800	320	400
Feb.	1	820	800	320	400
	15	850	800	320	400
Mar.	1	880	800	320	425
	15	900	800	320	450
Apr.	1	925	910	330	510
	15	1,100	1,070	340	640
May	1	1,750	1,200	350	1,100
	15	3,800	3,800	500	3,400
Jun.	1	3,800	3,800	500	3,400
	15	3,800	3,800	500	3,400
Jul.	1	2,100	2,150	420	1,900
	15	1,200	1,200	350	1,070
Aug.	1	800	840	320	690
	15	600	600	300	440
Sept.	1	620	600	300	400
	15	700	600	300	400
Oct.	1	750	730	330	450
	15	960	900	370	500
Nov.	1	950	900	370	500
	15	950	900	320	500

Month	Day	Lower Okanogan 12447200	Middle Okanogan 1244500	Upper Okanogan 124426000	Similkameen 12439500
Dec.	1	930	900	320	500
	15	900	850	320	450

(3) Minimum instream flow hydrographs, as represented in WAC 173-549-900, shall be used for definition of minimum instream flows on those days not specifically identified in WAC 173-549-020(2).

(4) Future consumptive water right permits hereafter issued for diversion of surface water from the mainstem Okanogan River and the Similkameen River shall be expressly subject to minimum instream flows established in WAC 173-549-020 (1) through (3) except those described in WAC 173-549-070.

(5) Projects that would reduce the flow in a portion of a stream's length (e.g. hydroelectric projects that bypass a portion of a stream) will be considered consumptive only with respect to the affected portion of the stream. Such projects will be subject to instream flows as specified by the department. These flows may be those established in WAC 173-549-020 or, when appropriate, may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach- and project-specific flow requirements, the department may require the project proponent to conduct such studies.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-020, filed 6/20/84; Order DE 76-25, § 173-549-020, filed 7/14/76.]

WAC 173-549-025 Stream closures. (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum instream flow in all perennial streams and rivers of the Okanogan River Basin for protection of instream values.

(2) In keeping with this policy, a partial year closure from May 1 to October 1 will be established on all perennial streams in the basin except those with established minimum instream flows as described in WAC 173-549-020.

(3) The upper Okanogan stream management unit as established in WAC 173-549-020(1) is closed to further consumptive appropriation from June 15 through August 31 with the exception of single-domestic use and stock-watering use, provided that no alternative source of supply is available.

(4) When a project (as described in WAC 173-549-020(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project proponent can adequately demonstrate that the project does not conflict with the intent of the closure.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-025, filed 6/20/84.]

WAC 173-549-027 Policy statement for future permitting actions. (1) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to

preserve an appropriate minimum instream flow in all perennial streams and rivers as well as the water levels in all lakes in the Okanogan River Basin by encouraging the use of alternate sources of water which include (a) ground water, (b) storage water, or (c) acquisition of existing water rights.

(2) All future permits to appropriate water from the Okanogan River, the Similkameen River and perennial tributaries shall be subject to the required flows at all downstream control stations as established in WAC 173-549-020.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-027, filed 6/20/84.]

WAC 173-549-035 Lakes. (1) In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. In considering future water right applications, the department shall deny any application for surface or ground water which will result in a significant decrease in lake level or in the stream flow of any stream draining the lake, except that no decrease in stream flow shall be allowed during the May 1 - October 1 stream closure period.

(2) Notwithstanding the above, nothing in this chapter shall limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or instream flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(3) Any future water rights for waters from Osoyoos Lake or from ground waters determined to be in significant hydraulic continuity with Osoyoos Lake, issued after the effective date of this chapter and upon completion of the new Osoyoos Lake outlet control structure, shall be subject to the maintenance of a water surface level of 910.5 feet USCGS in Osoyoos Lake and said diversions shall be curtailed when the lake elevation drops below elevation 910.5 feet USCGS.

(4) Notwithstanding the provisions of this chapter, the construction and operation of the proposed new outlet control structure for Osoyoos Lake shall be consistent with the terms and conditions of the International Joint Commission Order of Approval signed on December 9, 1982, pursuant to the 1909 Boundary Waters Treaty.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-035, filed 6/20/84.]

WAC 173-549-060 Ground water. If department investigations determine that there is significant hydraulic continuity between surface water and the proposed ground water source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of ground water from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public ground waters may be approved.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-060, filed 6/20/84; Order DE 76-25, § 173-549-060, filed 7/14/76.]

WAC 173-549-070 Effect on prior rights and exemptions. (1) Nothing in this chapter shall affect any existing water rights including, among others, riparian, appropriative, and federal Indian and non-Indian reserved rights, existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Single domestic use and stockwatering use shall be exempt from the provisions established in this chapter except that, when the cumulative impacts of numerous domestic diversions begins to significantly affect the quantity of water available for instream uses or the maintenance of lake levels, then any water rights issued after that time shall be issued only for in-house use if no alternative supply is available.

(3) Nonconsumptive uses which are compatible with the intent of the chapter may be approved.

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-070, filed 6/20/84; Order DE 76-25, § 173-549-070, filed 7/14/76.]

WAC 173-549-080 Future rights. No rights to divert or store public surface or ground waters of the Okanogan River Basin, WRIA 49, shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020 (3)(a).

[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-080, filed 6/20/84.]

WAC 173-549-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-549-090, filed 6/9/88. Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-090, filed 6/20/84.]

WAC 173-549-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-549-095, filed 6/9/88.]

WAC 173-549-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

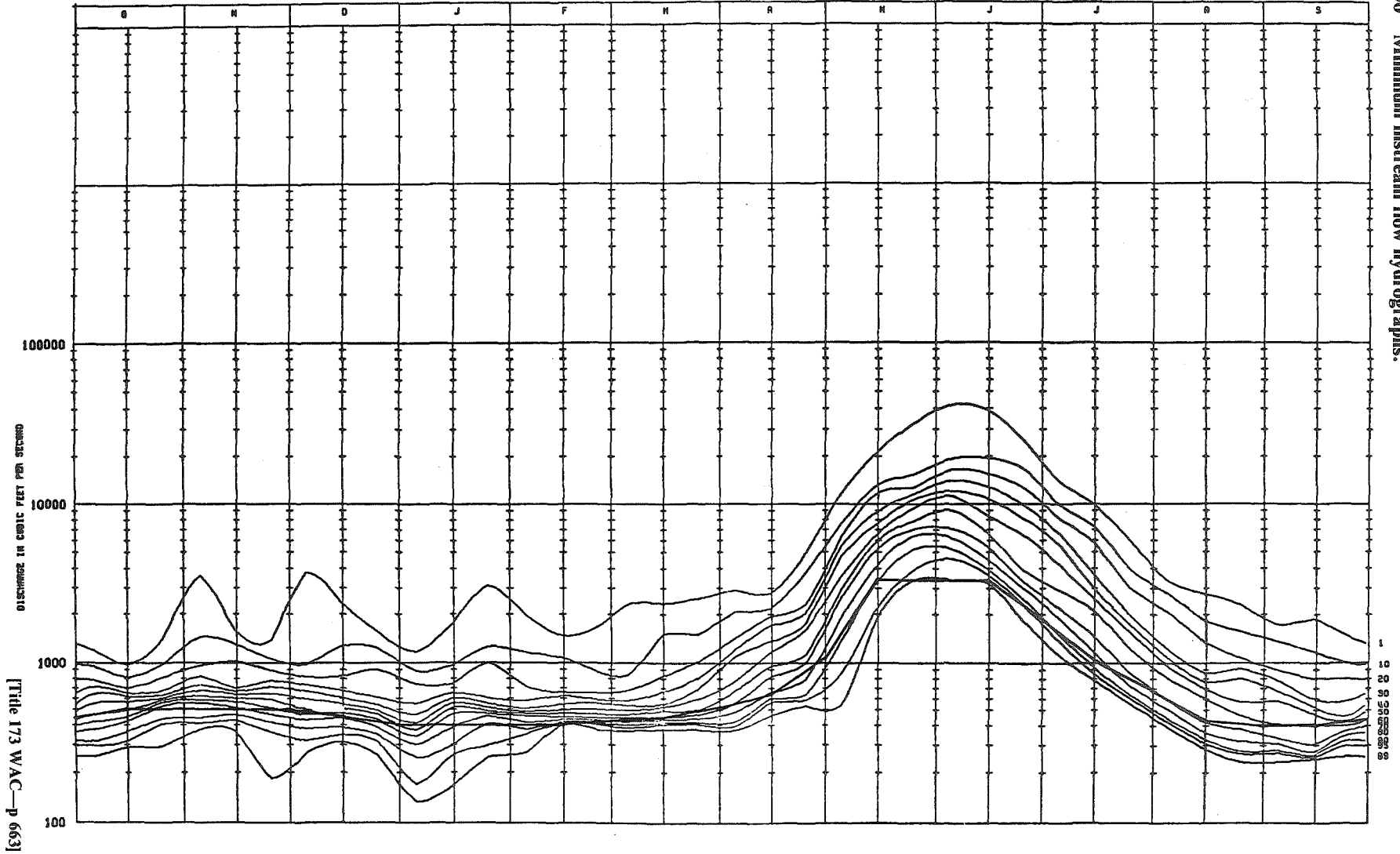
[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-549-100, filed 6/9/88. Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-100, filed 6/20/84.]

STATE OF WASHINGTON
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO
JAN 1966 - SEP 1970
OCT 1971 - SEP 1979

SIMILKAMEEN R NR NIGHTHAWK

12442500



WAC 173-549-900 Minimum instream flow hydrographs.

DISCHARGE IN CUBIC FEET PER SECOND

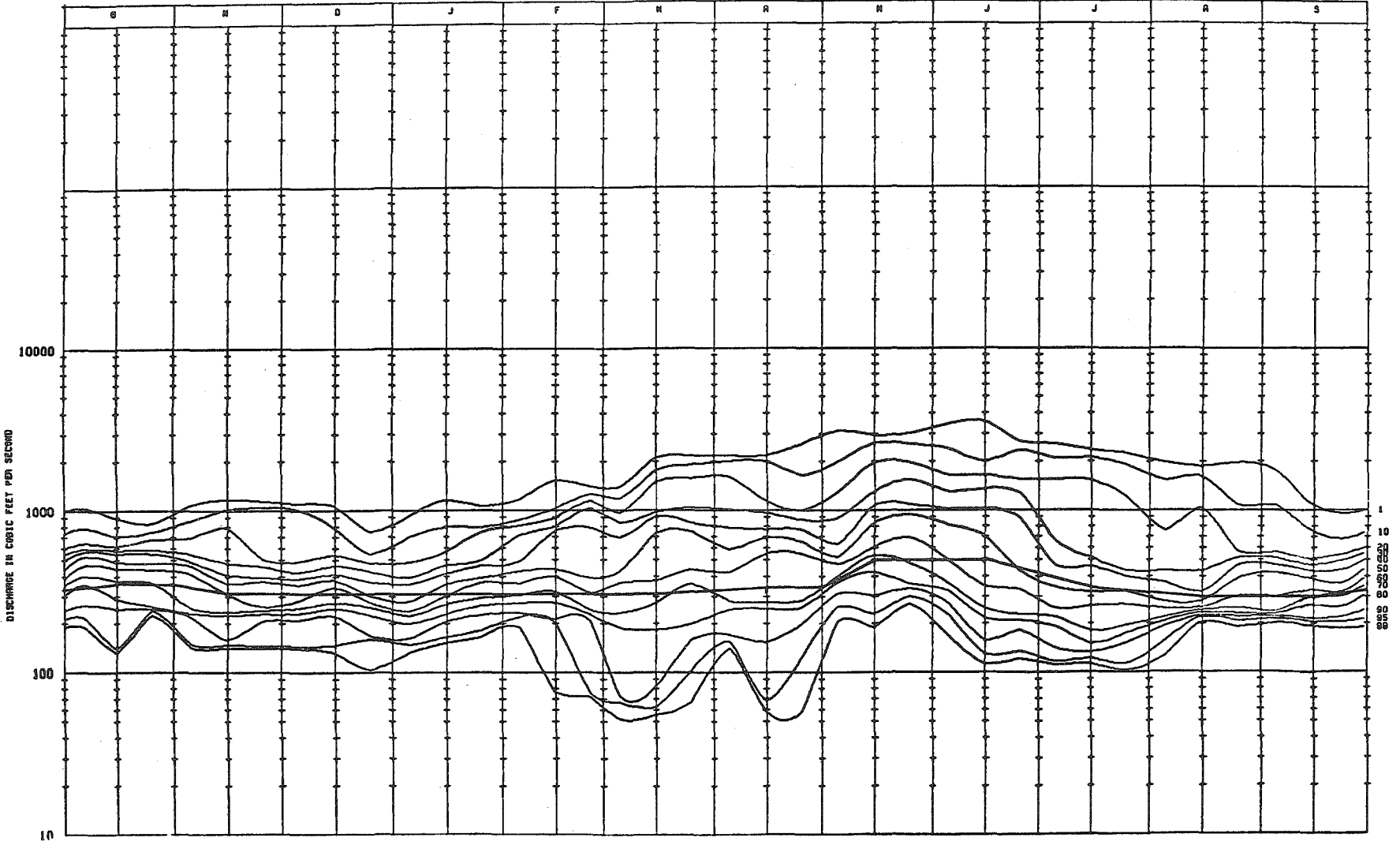
[Title 173 WAC--p 663]

STATE OF WASHINGTON
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO
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OCT 1971 - SEP 1970

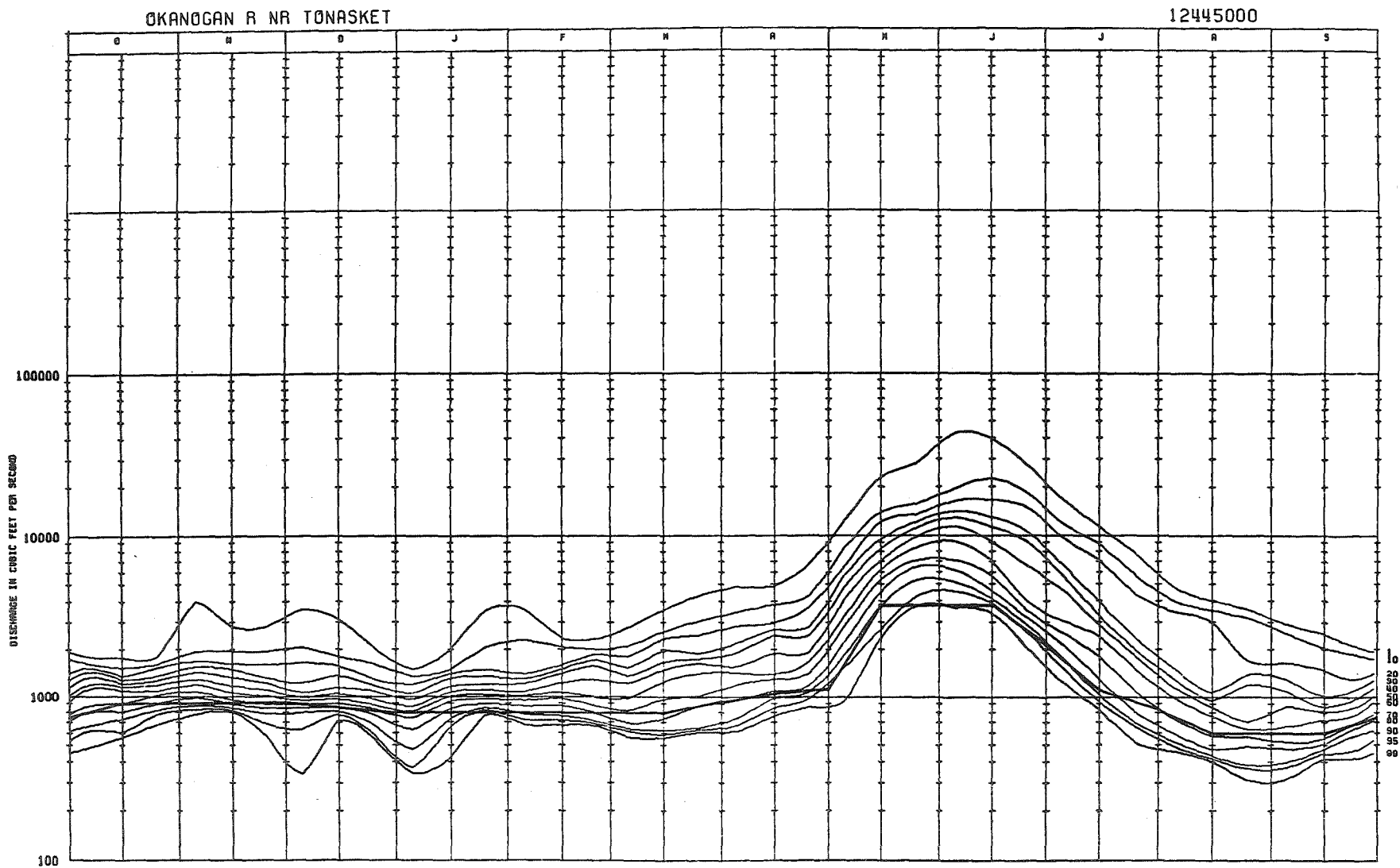
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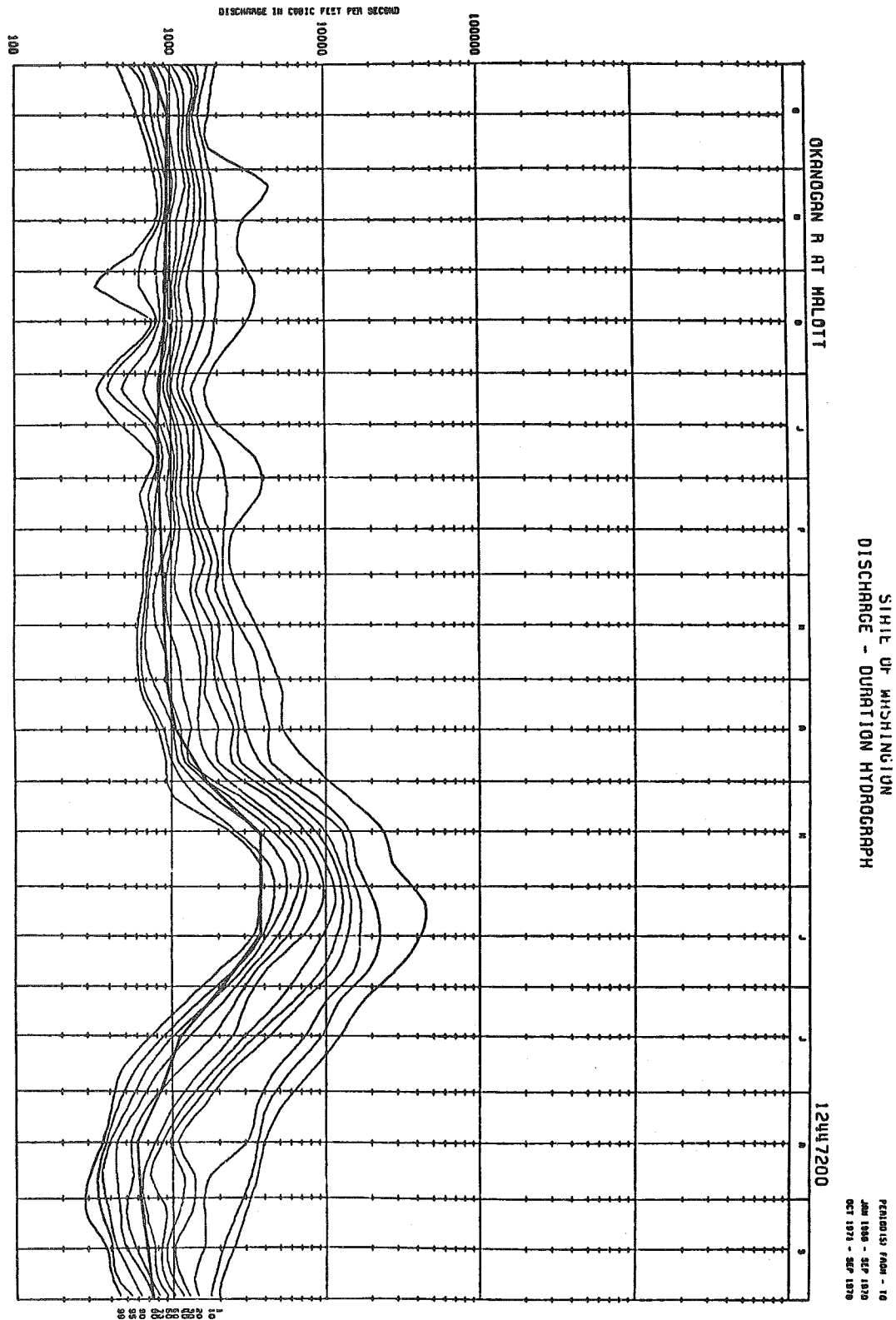
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STATE OF WASHINGTON
DISCHARGE - DURATION HYDROGRAPH

PERIOD(S) FROM - TO
JAN 1968 - SEP 1970
OCT 1971 - SEP 1979





[Statutory Authority: Chapters 90.54 and 90.22 RCW. 84-13-076 (Order DE 84-15), § 173-549-900, filed 6/20/84.]

Chapter 173-555 WAC
WATER RESOURCES PROGRAM IN THE LITTLE
SPOKANE RIVER BASIN, WRIA 55

WAC

- 173-555-010 General provision.
- 173-555-020 Definition.
- 173-555-030 Establishment of base flows.
- 173-555-040 Future allocations--Reservation of surface water for beneficial uses.
- 173-555-050 Priority of future water rights during times of water shortage.
- 173-555-060 Streams and lakes closed to further consumptive appropriations.
- 173-555-070 Effect on prior rights.
- 173-555-080 Enforcement.
- 173-555-090 Appeals.
- 173-555-100 Regulation review.

WAC 173-555-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Little Spokane River basin, WRIA-55 (see WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-555 WAC.

[Order DE 75-24, § 173-555-010, filed 1/6/76.]

WAC 173-555-020 Definition. "NONCOMMERCIAL AGRICULTURAL IRRIGATION" means beneficial use of water upon not more than three acres for the purpose of crops and livestock for domestic use.

[Order DE 75-24, § 173-555-020, filed 1/6/76.]

WAC 173-555-030 Establishment of base flows. (1) Base flows are established for stream management units with monitoring to take place at certain control points as follows:

Stream Management Unit Information

Control Station Number, Stream Management Unit Name	Control Station Location by River Mile and Section, Township Range	Affected Stream Reach
No. 12-4270.00 Little Spokane River Elk	34.6 Sec. 8, T.29N., R.43 E.W.M.	From confluence with Dry Creek to the headwaters including tributaries except Dry Creek.
No. 12-4295.00 Little Spokane River Chattaroy	23.05 Sec. 34, T.28N., R.43 E.W.M.	From confluence with Deer Creek to confluence with Dry Creek including tributaries except Deer Creek.
No. 12-4310.00 Little Spokane River Dartford	10.8 Sec. 6, T.26N., R.43 E.W.M.	From confluence with Little Creek to confluence with Deer Creek including tributaries except Little Creek.

Control Station Number, Stream Management Unit Name	Control Station Location by River Mile and Section, Township Range	Affected Stream Reach
No. 12-4315.00 Little Spokane River Confluence	3.9 Sec. 3, T.26N., R.42 E.W.M.	From mouth to confluence with Little Creek including tributaries.

(2) Base flows established for the stream management units in WAC 173-555-030(1) are as follows:

Base Flows in the Little Spokane River Basin
 (in Cubic Feet Per Second)

Month	Day	12-4270.00 Elk	12-4295.00 Chattaroy	12-4310.00 Dartford	12-4315.00 Confluence
Jan.	1	40	86	150	400
	15	40	86	150	400
Feb.	1	40	86	150	400
	15	43	104	170	420
Mar.	1	46	122	190	435
	15	50	143	218	460
Apr.	1	54	165	250	490
	15	52	143	218	460
May	1	49	124	192	440
	15	47	104	170	420
Jun.	1	45	83	148	395
	15	43	69	130	385
Jul.	1	41.5	57	115	375
	15	39.5	57	115	375
Aug.	1	38	57	115	375
	15	38	57	115	375
Sept.	1	38	57	115	375
	15	38	63	123	380
Oct.	1	38	70	130	385
	15	39	77	140	390
Nov.	1	40	86	150	400
	15	40	86	150	400
Dec.	1	40	86	150	400
	15	40	86	150	400

(3) Base Flow hydrographs, Figure II-1 in the document entitled "water resources management program in the Little Spokane River Basin" dated August, 1975 shall be used for definition of base flows on those days not specifically identified in WAC 173-555-030(2).

(4) All rights hereafter established shall be expressly subject to the base flows established in sections WAC 173-555-030 (1) through (3).

[Order DE 75-24, § 173-555-030, filed 1/6/76.]

WAC 173-555-040 Future allocations--Reservation of surface water for beneficial uses. (1) The department determines that these are surface waters available for appropriation from the stream management units specified in the amount specified in cubic feet per second (cfs) during the time specified as follows:

(a) Surface water available from the east branch of the Little Spokane River, confluence with Dry Creek to headwaters, based on measurement at control station number 12-4270.00 at Elk are:

Month	May	June	July	Aug.	Sept.	Oct.
Date	1 15	1 15	1 15	1 15	1 15	1 15
Amount	26 22	17 14	11 9	5 5	5 5	7 7

(b) Surface water available from the Little Spokane River from confluence with Little Creek at Dartford to Eloika Lake outlet, and to confluence with Dry Creek based on measurement at control station number 12-4310 at Dartford are:

Month	May	June	July	Aug.	Sept.	Oct.
Date	1 15	1 15	1 15	1 15	1 15	1 15
Amount	340 236	152 103	62 34	11 11	11 11	20 20

(c) Available surface waters for those days not specified in (a) and (b) shall be defined from Figures II-3 and II-4 in the document entitled "water resources management program in the Little Spokane River basin" dated August, 1975.

(2) The amounts of waters referred to in WAC 173-555-040(1) above are allocated for beneficial uses in the future as follows:

(a) Three cubic feet per second from the amount available in the east branch of the Little Spokane River referred to in WAC 173-555-040 (1)(a) above and five cubic feet per second from the amount available in the Little Spokane River, besides east branch, referred to in WAC 173-555-040 (1)(b) are allocated to future domestic, stockwatering and noncommercial agricultural irrigation purposes within the stream reaches specified therein throughout the year.

(b) The remainder of the amount referred to in WAC 173-555-040 (1)(a) and (b) besides the amount specified in WAC 173-555-040 (2)(a) are allocated to consumptive and nonconsumptive uses not specified in WAC 173-555-040 (2)(a). These are further described in the figures appended hereto.

[Order DE 75-24, § 173-555-040, filed 1/6/76.]

WAC 173-555-050 Priority of future water rights during times of water shortage. (1) As between rights established in the future pertaining to waters allocated in WAC 173-555-040 (2)(a) and (b), all rights established in (a) shall be superior to those pertaining to (b) regardless of the date of the priority of right.

(2) As between rights established in the future within a single use category allocation of WAC 173-555-040, the date of priority shall control with an earlier dated right being superior to those rights with later dates.

[Order DE 75-24, § 173-555-050, filed 1/6/76.]

WAC 173-555-060 Streams and lakes closed to further consumptive appropriations. The department, having determined there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the following streams to further consumptive appropriation except for domestic

[Title 173 WAC—p 668]

and normal stockwatering purposes excluding feedlot operation:

SURFACE WATER CLOSURES

Stream* Name	Affected Reach	Date of Closure	Period of Closure
Dry Creek	Mouth to headwaters	5-26-1952	1 June-31 Oct.
Otter Creek	Mouth to headwaters	2-23-1971	"
Bear Creek	Mouth to headwaters	4-13-1953	"
Deer Creek	Mouth to headwaters	2-29-1968	"
Dragoon Creek	Mouth to headwaters	7-02-1951	"
Deep Creek	Mouth to headwaters	6-14-1961	"
Deadman Creek ^{1/}	Mouth to headwaters	11-28-1961	"
Little Creek	Mouth to headwaters	4-13-1953	"
W. Branch Little Spokane River	Outlet of Eloika Lake to headwaters	Date of adoption	"
All natural lakes in the basin		"	"

* Includes all tributaries in the contributing drainage area unless specifically excluded.

^{1/} An unnamed tributary flowing through Sec. 20, T26N., R.44E. is exempted from closure.

[Order DE 75-24, § 173-555-060, filed 1/6/76.]

WAC 173-555-070 Effect on prior rights. Nothing in this chapter shall be construed to lessen, enlarge or modify the existing rights acquired by appropriation or otherwise.

[Order DE 75-24, § 173-555-070, filed 1/6/76.]

WAC 173-555-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-080, filed 6/9/88.]

WAC 173-555-090 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-.21B RCW.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-090, filed 6/9/88.]

WAC 173-555-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-555-100, filed 6/9/88.]

**Chapter 173-559 WAC
WATER RESOURCES PROGRAM FOR THE
COLVILLE RIVER BASIN, WRIA-59**

WAC

- 173-559-010 Purpose.
- 173-559-020 Definitions.
- 173-559-030 Establishment of base flows.
- 173-559-040 Allocation for future surface water appropriations.
- 173-559-050 Certain streams and lakes are closed to further consumptive appropriations.
- 173-559-060 Ground water.
- 173-559-070 Effects on prior rights.
- 173-559-080 Enforcement.
- 173-559-090 Appeals.
- 173-559-100 Regulation review.

WAC 173-559-010 Purpose. This regulation is adopted in accordance with the water resources management regulation, chapter 173-500 WAC, which was promulgated under the authority of the Water Resources Act of 1971, chapter 90.54 RCW. This chapter, including any amendments, applies to all waters that lie within or contribute to the Colville River drainage basin. This chapter sets forth the department's policies to manage the basin's water resources.

[Order DE 77-6, § 173-559-010, filed 7/22/77.]

WAC 173-559-020 Definitions. For purposes of this chapter, the following definitions shall be used.

(1) "Allocation" means the designating of specific amounts of the water resource for specific beneficial uses.

(2) "Base flow" means a level of stream flow established in accordance with provisions of chapter 90.54 RCW required in perennial streams to preserve wildlife, fish, scenic, aesthetic, and other environmental and navigational values.

(3) "Consumptive use" means use of water, whereby there is diminishment of the water resources.

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

(5) "Director" means the director of the department of ecology.

(6) "Domestic use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn and garden per dwelling, and other incidental household uses.

(7) "Hydrograph" is a graph showing the variation of streamflow (or stream discharge) with respect to time

during a year as determined at a specific cross-sectional location on the stream.

(8) "In-house domestic use" means use of water for drinking, cleaning, sanitation, and other uses in a residence, excluding irrigation of lawn and garden.

(9) "Nonconsumptive use" means a type of water use where either there is no diversion from a source body, or where there is no diminishment of the source.

(10) "Perennial stream" means a stream with a natural flow which is normally continuous at any given location.

(11) "Reservoir permit" means a water right permit which authorizes construction of an impoundment structure, storage of water and generally the use of water in the amount of one filling annually.

(12) "Secondary permit" means a water right permit which allows diversion of water for beneficial use from a storage reservoir. A secondary permit is necessary only for use in excess of one filling annually, or for diversion and use by a party other than the reservoir owner.

(13) "Stream management unit" means a stream segment, reach, or tributary, containing a control station, that is identified on a stream reach map in an adopted water resource management program document as a unit for defining base flow levels.

(14) "Water right" means a right to make beneficial use of public waters of the state.

[Order DE 77-6, § 173-559-020, filed 7/22/77.]

WAC 173-559-030 Establishment of base flows. RCW 90.54.020 requires that perennial rivers and streams shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values and navigational values. Under this provision, base flows for stream management units of a basin are established which describe discharge rates at stream measurement stations in each unit. The following subsections, WAC 173-559-030(1) through (4), establish these requirements for WRIA 59:

(1) In the Colville River basin, monitoring of base flows will take place at the following control points:

**Table 1
Stream Management Units**

Stream Management Unit and Control Station Number	Control Station Location by River-Mile, and Section Township and Range	Stream Management Reach
Upper Colville River No. 12.4080.00	32.1 Sec. 31, T. 33 N., R. 40 E.W.M.	Colville River from confluence with Stensgar Creek to confluence of Sheep Creek and Deer Creek.
Lower Colville River No. 12.4090.00	5.0 Sec. 29, T. 36 N., R. 38 E.W.M.	Colville River from confluence with Lake Roosevelt to confluence with Stensgar Creek.

(2) In the Colville River basin, base flows for the stream management units in WAC 173-559-030(1) are set in Table 2 as follows:

Table 2

Base Flows in the Colville River basin
(in Cubic Feet Per Second)

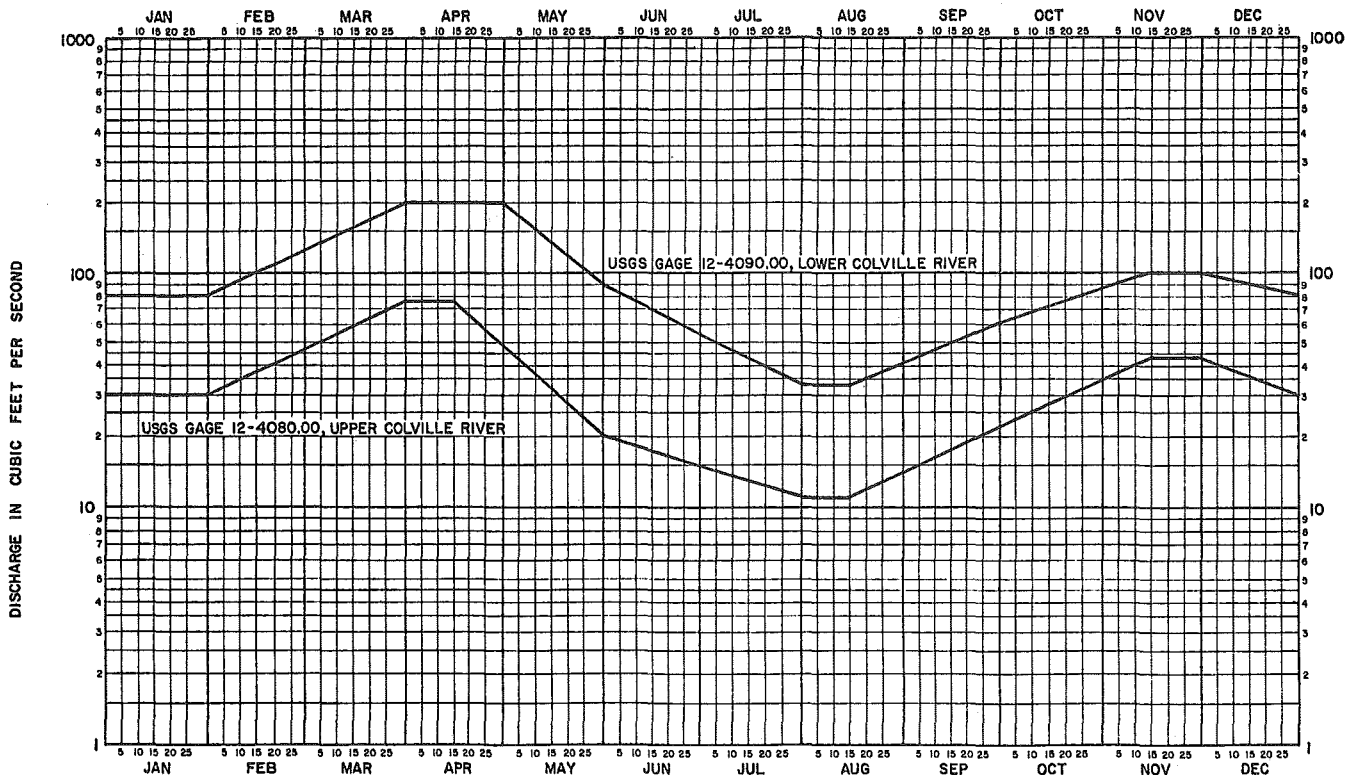
Month	Day	Upper Colville (12.4080.00)	Lower Colville (12.4090.00)
Jan.	1	30	80
	15	30	80
Feb.	1	30	80
	15	38	100
Mar.	1	47	124
	15	59	157
Apr.	1	76	200
	15	76	200
May	1	49	200
	15	32	135
Jun.	1	20	90
	15	17	70
Jul.	1	15	55
	15	13	43
Aug.	1	11	33
	15	11	33
Sep.	1	14	40
	15	18	49

Month	Day	Upper Colville (12.4080.00)	Lower Colville (12.4090.00)
Oct.	1	22	60
	15	27	70
Nov.	1	35	84
	15	43	100
Dec.	1	43	100
	15	36	90

(3) Figure 1, base flow hydrographs for selected stations, shall be used to define base flows on those days not identified in WAC 173-559-030(2).

(4) All surface water rights, established by appropriation in the Upper Colville and Lower Colville stream management units after adoption of this regulation, shall be subject to the base flows set in WAC 173-559-030 (1) through (3). However, these base flows will not apply to in-house domestic use and stock watering use, if an alternate source is not available to satisfy these uses. If the cumulative impact of numerous single in-house domestic use diversions is determined to substantially affect a stream's base flow or existing rights, then new permits for this use may be denied.

Figure 1
BASE FLOW HYDROGRAPH FOR SELECTED STATIONS



[Order DE 77-6, § 173-559-030, filed 7/22/77.]

WAC 173-559-040 Allocation for future surface water appropriations. (1) The department determines that surface water is available for appropriation from the Upper Colville River stream management unit and the Lower Colville River stream management unit except as provided in WAC 173-559-050(2). Tables 3 and 4 show the available amounts in cubic feet per second during specified periods, as follows:

Table 3
Allocation of Public Surface Water from the
Upper Colville River Stream Management Unit
(Units in Cubic Feet Per Second)

Month	Base Flow	Future Consumptive Uses
Jan.	30	47
Feb.	41	68
Mar.	61	129
April	44	256
May	20	192
June	13	93
July		
1-15	12	18
16-31	12	0
Aug.	11	0
Sept.	17	0
Oct.	27	16
Nov.	43	21
Dec.	36	37

Table 4
Allocation of Public Surface Water from the
Lower Colville River Management Unit
(Units in Cubic Feet Per Second)

Month	Base Flow	Future Consumptive Uses
Jan.	80	47
Feb.	100	68
Mar.	157	129
April	200	256
May	135	256
June	70	94
July		
1-15	43	18
16-31	43	0
Aug.	33	0
Sept.	49	0
Oct.	70	17
Nov.	100	21
Dec.	90	37

(2) Total appropriations for nonconsumptive uses may exceed the allocation limits specified in Tables 3 and 4.

(3) Monthly allocations in Tables 3 and 4 do not apply to the use of stored water. Specific provision will be included in all reservoir permits regarding period of filling, use and release of water.

[Order DE 77-6, § 173-559-040, filed 7/22/77.]

WAC 173-559-050 Certain streams and lakes are closed to further consumptive appropriations. (1) The department has determined that no water is available for further consumptive appropriation in streams tributary to the Colville River. Therefore, these tributary streams are closed to further consumptive appropriation except for reservoir storage from November 1 through May 31. Applications for single in-house domestic use, or stockwatering may be approved if no alternate source of water supply is available and the proposed use will not impair existing water rights.

(2) The Upper Colville River and Lower Colville River will be closed to further consumptive appropriation from July 16 through September 30, except for in-house domestic use and normal stockwatering if no alternate source of water supply is available.

(3) If the cumulative impact of numerous single in-house domestic use diversions is determined to substantially affect a closed stream's base flow, then new permits for this use may be denied. Base flow levels for closed streams are specified in the department's publication, "water resources management program, Colville River basin."

(4) Appropriation of water from streams tributary to the Colville River for out of stream storage and on-stream storage shall be subject to the base flows recommended in the department's publication, "water resources management program, Colville River basin."

(5)(a) Lakes included in table 5 are closed to further consumptive appropriation for specified periods of the year, except for in-house domestic and stockwatering uses. The department may deny applications for domestic use if the cumulative effect of such diversions would be detrimental to retaining a lake substantially in its natural condition.

Table 5 Lake Closures

Lake	Tributary to	Location	Period of Closure
Deer Lake	Sheep Creek	T. 30 N., R. 41 E. Secs. 1, 11, 12, 14	June 1-Oct. 31
Loon Lake	Sheep Creek	T. 30 N., R. 41, E. Secs. 33, 34., T. 29 N., R. 41 E. Secs. 2, 3, 4, 10, 11	June 1-Oct. 31
Waitts Lake	Waitts Creek	T. 31 N., R. 40 E. Secs. 17-20	June 1-Oct. 31
Jumpoff Joe Lake	Colville River	T. 31 N., R. 40 E. Sec. 19	June 1-Oct. 31
White Mud Lake		T. 35 N., R. 40 E. Sec. 19.	June 1-Oct. 31

Lake	Tributary to	Location	Period of Closure
Heritage and Thomas Lakes	Little Pend Oreille River	T. 36 N., R. 42 E. Secs. 8,9, 17,18	June 1-Oct. 31

(b) Appropriation of water from lakes not specified in table 5 will be permitted if prior water rights will not be adversely affected and if the appropriation will not conflict with the intent of RCW 90.54.020 (3)(a) which stipulates, in part, that "lakes and ponds shall be retained substantially in their natural condition."

[Order DE 77-6, § 173-559-050, filed 7/22/77.]

WAC 173-559-060 Ground water. If it is determined that a future development of ground water affects surface waters subject to the provisions of WAC 173-559-030 through 173-559-050, then rights to said ground water shall be subject to the same conditions as affects the surface water.

[Order DE 77-6, § 173-559-060, filed 7/22/77.]

WAC 173-559-070 Effects on prior rights. Nothing in this chapter shall be construed to lessen, enlarge, or modify existing rights acquired by appropriation or by other means.

[Order DE 77-6, § 173-559-070, filed 7/22/77.]

WAC 173-559-080 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-559-080, filed 6/9/88.]

WAC 173-559-090 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-559-090, filed 6/9/88.]

WAC 173-559-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-559-100, filed 6/9/88.]

Chapter 173-563 WAC INSTREAM RESOURCES PROTECTION PROGRAM FOR THE MAIN STEM COLUMBIA RIVER IN WASHINGTON STATE

WAC

173-563-010	Background and purpose.
173-563-020	Applicability.
173-563-030	Authority.
173-563-040	Establishment of instream flows for instream uses.
173-563-050	Critical flow adjustment to, and waivers of, minimum instantaneous and average weekly flows.
173-563-052	Establishment of instream flows for out-of-stream uses.
173-563-056	Application of minimum average weekly flows to out-of-stream uses.
173-563-060	Establishment of conservation and efficiency fundamentals.
173-563-070	Enforcement.
173-563-075	Regulation review.
173-563-080	Overriding considerations.
173-563-090	Regulation review.
173-563-100	Implementation.
173-563-900	Critical flow adjustment—Minimum instantaneous and weekly average flows—Columbia River.

WAC 173-563-010 Background and purpose. The Columbia River is an international as well as an interstate river with its waters subject to laws of seven western states, the Province of British Columbia, Canada and the federal governments of the United States and Canada. The flows and levels of the river are in a state of continuous change through the operation of numerous federally owned or federally licensed dams located within the river. The waters of the Columbia River are operated to support extensive irrigation development, inland navigation, municipal and industrial uses, and hydroelectric power development. Among all these uses, the anadromous fisheries of the Columbia River, which are dependent on clean flowing water, require for their survival the establishment of minimum flows of water and special actions by all agencies sharing in the management of the Columbia River.

The provisions of this chapter apply, as a matter of state law, to water right permits issued pursuant to the state's water rights code. The provisions hereof shall provide the department of ecology the basic state policy relating to minimum flows and levels for the Columbia River, for submission to various federal, interstate and state agencies having jurisdiction over the river. Further, the department of ecology of the state of Washington recognizes that, under our federal constitutional system, regulatory powers over the river are shared powers between the United States and the state of Washington and that by various federal actions the state's powers may, and in some cases have been superseded through the mandates of the Supremacy Clause of the United States Constitution.

This chapter is adopted under state legislation, to promote the proper utilization of the water resources of the Columbia River and to protect and insure the viability of the instream resource values associated with the main stem of the Columbia River in the future through (1) the establishment of minimum flows on the main stem Columbia River in Washington state, and (2) the

establishment of conservation and efficiency fundamentals relating to out-of-stream and instream uses and values.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-010, filed 6/24/80.]

WAC 173-563-020 Applicability. (1) This chapter applies to public surface waters of the main stem Columbia River in Washington state and to any ground water the withdrawal of which is determined by the department of ecology to have a significant and direct impact on the surface waters of the main stem Columbia River.

The extent of the "main stem" Columbia River shall be the Columbia River from the upstream extent of tidal influence (Bonneville Dam-River Mile 146.1) upstream to the United States-Canada border (River Mile 745) and including those areas inundated by impounded waters at full pool elevations.

(2) Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program mandated by RCW 90.54.040, applies to this chapter.

(3) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise, existing on the effective date of this chapter, including existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir, or related facilities. This exemption includes rights embodied in all water right permits and certificates existing on the effective date of this chapter.

(4) Water right permits and certificates for domestic/municipal water supplies issued subsequent to the effective date of this rule shall not be subject to the provisions of this chapter.

(5) Waters withdrawn by the United States pursuant to RCW 90.40.030 prior to the effective date of this rule relating to the second half of the Columbia basin project, and water right permits and certificates hereafter issued by the department of ecology pertaining to such withdrawn waters, are not subject to the provisions of this chapter.

(6) For the purposes of this chapter, average weekly flows shall be the average of the daily average flows reported in the Columbia River operational hydromet and management system (CROHMS) for a seven-day period beginning at 12:01 a.m. Monday and ending at midnight on Sunday. When the beginning of the seven-day period defined in this section does not correspond to the dates on which flows are established in WAC 173-563-040, the flow requirements for that week shall be the arithmetic average of the required flows listed in WAC 173-563-040 for each of the seven days, rounded to the nearest 1,000 cfs.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-020, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-020, filed 6/24/80.]

WAC 173-563-030 Authority. These rules are adopted under the authority of chapters 90.54, 90.22,

and 90.03 RCW, and in relation to chapter 173-500 WAC.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-030, filed 6/24/80.]

WAC 173-563-040 Establishment of instream flows for instream uses. (1) In order to protect the quality of the natural environment and provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values, minimum instantaneous flows and minimum average weekly flows are established for instream uses at the following project locations on the main stem Columbia River in Washington state:

CONTROL STATION	RIVER MILE	MANAGEMENT UNIT
The Dalles Dam	191.5	John Day Dam to Bonneville Dam (Lake Bonneville and Celilo Lake) (River Mile 146.1-215.6)
John Day Dam	215.6	John Day Dam to McNary Dam (Umatilla Lake) (River Mile 215.6-292.0)
McNary Dam	292.0	McNary Dam to Priest Rapids Dam (Lake Wallula and the Hanford Reach) (River Mile 292.0-397.1)
Priest Rapids Dam and upstream (Wanapum, Rock Island, Rocky Reach, Wells, Chief Joseph, and Grand Coulee Dam)	397.1+	Priest Rapids Dam upstream to Canadian Border (River Mile 397.1-745.0)

(2) Minimum instantaneous flows at the locations listed in WAC 173-563-040(1) are established for instream uses as follows:

MINIMUM INSTANTANEOUS FLOWS - COLUMBIA RIVER PROJECTS (1,000 cubic feet/second)

	Chief* Joseph	Wells & Rocky Reach Rock Island & Wanapum*	Priest Rapids	McNary & John Day	The Dalles
Jan	10	10	50	20	20
Feb	10	10	50	20	20
Mar	10	10	50	50	50
Apr 1-15	20	20	50	50	70
16-25	20	30	50	70	70
26-30	20	50	50	70	70
May	20	50	50	70	70
June 1-15	20	50	50	70	70
16-30	10	20	50	50	50
Jul 1-15	10	20	50	50	50
16-31	10	50	50	50	50
Aug	10	50	50	50	50
Sep	10	20	36	50	50
Oct 1-15	10	20	36	50	50
16-31	10	20	50	50	50
Nov	10	10	50	50	50
Dec	10	10	50	20	20

*As provided in WAC 173-563-050(1), the minimum instantaneous flows set forth in this subsection are subject to a reduction of up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs. For the reach from Grand Coulee through Wanapum, minimum

instantaneous flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever is higher.

(3) Minimum average weekly flows for instream uses are established at the locations listed in WAC 173-563-040(1) as follows:

MINIMUM AVERAGE WEEKLY FLOWS - COLUMBIA RIVER
PROJECTS
(1,000 cubic feet/second)

	Chief Joseph*	Wells & Rocky Reach*	Rock Island & Wanapum*	Priest Rapids	McNary	John Day	The Dalles
Jan	30	30	30	70	60	60	60
Feb	30	30	30	70	60	60	60
Mar	30	30	30	70	60	60	60
Apr	1-15	50	60	70	100	100	120
	16-25	60	60	70	150	150	160
	26-30	90	100	110	200	200	200
May	100	115	130	130	220	220	220
Jun	1-15	80	110	110	200	200	200
	16-30	60	80	80	120	120	120
Jul	1-15	60	80	80	120	120	120
	16-31	90	100	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct	1-15	30	35	40	60	85	90
	16-31	30	35	40	70	60	85
Nov	30	30	30	70	60	60	60
Dec	30	30	30	70	60	60	60

*For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-040, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-040, filed 6/24/80.]

WAC 173-563-050 Critical flow adjustment to, and waivers of, minimum instantaneous and average weekly flows. (1) The director of the department of ecology, when he deems it to be an overriding public interest requirement, may reduce the minimum instantaneous and/or average weekly flows for the Columbia River established in this chapter up to twenty-five percent during low flow years, except that in no case shall the outflow from Priest Rapids be less than 36,000 cfs. The amount of the reduction (from zero to twenty-five percent) shall be: (a) Based on the March 1 forecast for April through September runoff at The Dalles, Oregon, as published by the National Weather Service in Water Supply Outlook for the Western United States, and (b) determined from Figure 1 in WAC 173-563-900.

(2) Prior to implementing the critical flow adjustment to minimum flows in a low water year, the department of ecology shall conduct a public hearing to announce its intentions and to solicit public and agency comment on the proposed action.

[Title 173 WAC—p 674]

(3) The department has determined that some damage to instream values may be incurred at flow values equivalent to eighty-eight million acre-feet or less. Therefore, the reduced flows shall be referred to as critical flows and shall be authorized by the director of the department of ecology under the critical flow adjustment only when the March 1 forecast of April through September flow at The Dalles is below eighty-eight million acre-feet (MAF). The critical flows shall, in no case, provide less than 39.4 MAF (seventy-five percent of 52.5 MAF for the April through September period).

(4) The director of the department of ecology may waive the state's minimum flow requirements delineated in this chapter for a defined period of time for the purpose of studying the impacts of various flow levels on the river system and its operation when such studies are to be conducted in consultation with the Washington departments of fisheries and/or wildlife and when said exemption is requested by the departments of fisheries and/or wildlife. Such a request shall be made by letter to the director of the department of ecology. This waiver may include the Federal Energy Regulatory Commission studies to be conducted under Docket No. E-9569 and any operational change which does not allow the flows under this chapter to be met, but which, in the opinion of the director, still provides a commensurate level of protection for instream resources.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-050, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-050, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-050, filed 6/24/80.]

WAC 173-563-052 Establishment of instream flows for out-of-stream uses. In order to protect the quality of the natural environment and provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values, the minimum average weekly flows listed in WAC 173-563-040(3) are established for out-of-stream uses.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-052, filed 10/7/82 and 10/8/82.]

WAC 173-563-056 Application of minimum average weekly flows to out-of-stream uses. (1) For the first 4,500 cfs of water rights issued subject to this program, the following conditions shall apply:

(a) When the March 1 forecast of April-September runoff at The Dalles, Oregon (as published by the National Weather Service in Water Supply Outlook for the Western United States) is equal to or greater than 88 million acre-feet (MAF), no regulation of out-of-stream diverters shall occur, regardless of the gaged flow of the Columbia River.

(b) When the flow forecast is less than 88 MAF but greater than 60 MAF, the department shall encourage voluntary water conservation through appropriate notification of water users in an attempt to foster efficient resource use.

(c) When the flow forecast is 60 MAF or less, the department shall regulate out-of-stream diverters on the basis of first-in-time is first-in-right whenever it is predicted that gaged flows will fall below the minimum average weekly flows as established by this chapter.

(2) For any water allocations issued in excess of the first 4,500 cfs defined in WAC 173-563-056(1), the following conditions shall apply:

(a) When the March 1 forecast of April-September runoff at The Dalles, Oregon (as published by the National Weather Service in Water Supply Outlook for the Western United States) is equal to or greater than 88 million acre-feet (MAF), no regulation of out-of-stream diverters shall occur, regardless of the gaged flow of the Columbia River.

(b) When the flow forecast is less than 88 MAF, the department shall regulate out-of-stream diverters on the basis of first-in-time is first-in-right whenever it is predicted that gaged flows will fall below the CRIRPP minimum average weekly flows as established by this chapter.

(3) The department shall utilize the Bonneville Power Administration (BPA) 30-day power operation plan in predicting specific periods of anticipated flow conditions.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-056, filed 10/7/82 and 10/8/82.]

WAC 173-563-060 Establishment of conservation and efficiency fundamentals. (1) The department, having determined that public water is available from the main stem of the Columbia River in Washington and that continued issuance of water right permits and certificates therefrom is in the public interest, does acknowledge and is concerned that, cumulatively, the projected future diversions from the main stem Columbia River in Washington state may, under certain flow conditions, have a detrimental effect on instream values.

(2) Also, it is in the public interest that the state's water resources be conserved and that the burden of water shortages in low water years should be shared by the various users to the greatest extent practicable.

(3) Notwithstanding the constraints on prorata water-sharing under existing state water laws, the department shall, in projected low water years, utilize all reasonable measures of influence to achieve the goal of this section.

(4) During proof of appropriation of water under RCW 90.03.330 and before issuing a certificate of water right, the department shall assure that the quantities of water shown on the certificate accurately reflect the perfected usage consistent with up-to-date water conservation practices and water delivery system efficiencies.

(5) The department shall continue to seek effective methods to better achieve the goal of this section.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-060, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-060, filed 6/24/80.]

WAC 173-563-070 Enforcement. In enforcement of this chapter, the department of ecology may impose such

sanctions as appropriate under the authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-070, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-070, filed 6/24/80.]

WAC 173-563-075 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-075, filed 6/9/88.]

WAC 173-563-080 Overriding considerations. Future authorizations for the use of water which would conflict with the provisions of this chapter shall be authorized by the director only in those situations when it is clear that overriding considerations of the public interest will be served. Such decisions shall be made in consultation with the directors of the Washington state department of fisheries, the Washington state department of wildlife, the Washington state department of agriculture, and the Washington state commissioner of public lands.

Consideration of the public interest by the director of the department of ecology shall include an evaluation of all uses of the river and its impact on the state of Washington. The uses to be considered include, but are not limited to, uses of water for domestic, stockwatering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values and all other uses compatible with the enjoyment of the public waters of the state.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-080, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-080, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-080, filed 6/24/80.]

WAC 173-563-090 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-563-090, filed 6/9/88. Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW. 80-08-021 (Order DE 80-2), § 173-563-090, filed 6/24/80.]

WAC 173-563-100 Implementation. (1) All water right permits and certificates subject to this chapter or issued subject to chapter 173-531A WAC shall be issued subject to the department's minimum flow requirements. (The minimum average weekly flows established in WAC 173-563-040 and 173-563-052 are equivalent to a flow of 52.5 MAF at The Dalles for the April through September period.)

(2) All water rights for instream uses subject to the minimum flows established in this chapter shall contain the following provision:

This permit/certificate is subject to the minimum flow provisions contained in chapter 173-563 WAC and is subject to regulation by the department of ecology to insure protection of instream resources.

(3) All water rights for out-of-stream uses subject to the flows established in this chapter shall contain the following provisions:

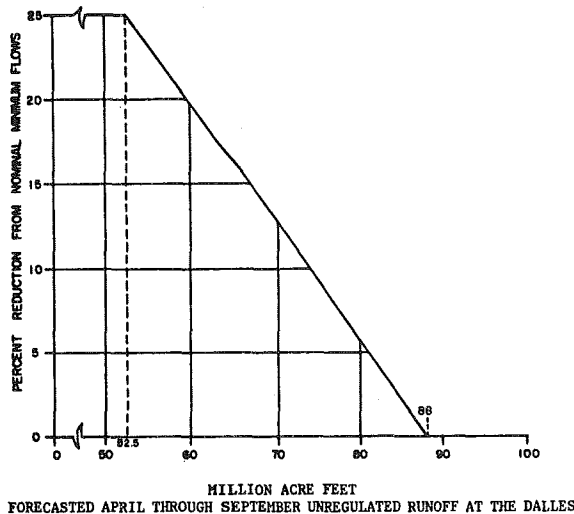
(a) This permit/certificate is subject to the minimum flow provisions contained in chapter 173-563 WAC and is subject to regulation by the department of ecology to insure protection of instream resources.

(b) Use of water under this authorization shall be contingent upon the water right holder's utilization of up to date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities.

[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW, 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-100, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-100, filed 6/24/80.]

**WAC 173-563-900 Critical flow adjustment--
Minimum instantaneous and weekly average flows--
Columbia River.**

FIGURE 1
CRITICAL FLOW ADJUSTMENT
MINIMUM INSTANTANEOUS AND
WEEKLY AVERAGE FLOWS
COLUMBIA RIVER



[Statutory Authority: RCW 90.54.040, 90.54.050, chapters 90.03 and 90.22 RCW, 82-21-001 and 82-21-007 (Orders DE 82-35 and DE 82-35A), § 173-563-900, filed 10/7/82 and 10/8/82; 80-08-021 (Order DE 80-2), § 173-563-900, filed 6/24/80.]

Chapter 173-590 WAC

**PROCEDURES RELATING TO THE RESERVATION
OF WATER FOR FUTURE PUBLIC WATER
SUPPLY**

WAC

173-590-010	Background.
173-590-020	Purpose.
173-590-030	Authority.
173-590-040	General.
173-590-050	Definitions.
173-590-060	Reservation procedure—Petition for reservation.
173-590-070	Contents of petition.
173-590-080	Record of petition.
173-590-090	Notice.
173-590-100	Investigation.
173-590-110	Reservation.
173-590-120	Compatibility with existing water resources program.
173-590-130	Separate reservation by use.
173-590-140	Reservation subject to review and change.
173-590-150	Effective date of reservation.
173-590-160	Application for water rights.
173-590-170	Reservation without petition—Hearings.
173-590-180	Appeal.
173-590-190	Regulation review.

WAC 173-590-010 Background. (1) The Water Resources Act of 1971 (chapter 90.54 RCW) sets forth fundamentals of water resource policy to insure that the waters of the state will be protected and fully utilized for the greatest benefit to the people of the state of Washington, and in relation thereto, the act provides direction to the department of ecology and other state agencies and officials in carrying out water and related resource programs.

(2) The act directs the department to develop and implement a water resources program which will provide a process for making decisions on future water resource allocation and use.

(3) The program may be developed in regional segments so that immediate attention may be given to waters of a given physioeconomic region of the state or to specific critical problems of water allocation and use.

(4) Preservation and protection of water in a potable condition for adequate and safe supplies to satisfy human domestic needs is one of the fundamentals of state water resource policy set forth in said act.

(5) The act further directs the department of ecology to modify existing regulations and adopt new regulations to insure that existing regulatory programs are in accord with the water resource policies of the act.

(6) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less cost including opportunity lost.

[Order DE 75-32, § 173-590-010, filed 3/11/76 and 3/10/76.]

WAC 173-590-020 Purpose. The purpose of this chapter is to establish and set forth a procedure whereby any person within the state of Washington may petition the department to reserve water for future public water supply.

[Order DE 75-32, § 173-590-020, filed 3/10/76.]

WAC 173-590-030 Authority. This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW.

[Order DE 75-32, § 173-590-030, filed 3/10/76.]

WAC 173-590-040 General. (1) These rules shall apply to both surface and ground waters of the state.

(2) Because of changing future conditions, including institutional arrangements, reservations under this chapter will be for specific geographic areas rather than for particular water suppliers.

(3) Appropriation of reserved water shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW and adopted water resources programs under chapters 173-500 through 173-562 WAC applicable to the geographic area specified in a water right application.

(4) Regulations reserving waters for public water supply shall, where appropriate, provide guidelines for an interim use of the reserved waters for other beneficial uses.

[Order DE 75-32, § 173-590-040, filed 3/10/76.]

WAC 173-590-050 Definitions. For the purpose of this chapter and subsequent regulations, the following definitions shall be used:

(1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, fire fighting, and attendant commercial, industrial and irrigation uses.

(2) "Director" means the director of the state of Washington department of ecology or his authorized representative.

(3) "Department" means the department of ecology unless specified otherwise.

(4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses.

(5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan adopted by utilities covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible. In areas where more than one water

system lie in close proximity, a coordinated water system plan may consist of either of the following:

(a) A compilation of current and compatible water system plans developed by each utility containing the elements of comprehensive plan as set forth in WAC 248-54-280, with the addition of future service area designations, assessment of the feasibility of shared source, transmission, and storage facilities, and other mutual or regional concerns.

(b) An area wide water system plan developed jointly or by a lead agency which adequately addresses all the items mentioned in (a) above.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity however dominated, including a state agency or county who operates a public water supply system or who contemplates such an operation.

[Order DE 75-32, § 173-590-050, filed 3/10/76.]

WAC 173-590-060 Reservation procedure--Petition for reservation. Any person, hereafter desiring the department to reserve water for future public water supply may file a petition with the director requesting future establishment of a reservation, provided that the applicant shall have a coordinated water system plan approved by the secretary, department of social and health services unless exempted from this requirement by both the secretary and the director.

[Order DE 75-32, § 173-590-060, filed 3/10/76.]

WAC 173-590-070 Contents of petition. Each petition to the director for the reservation of water shall include, but not be limited to, the following:

(1) Name and post office address of the applicant.

(2) Source of water supply.

(3) Map showing the proposed general service area, source of supply, pipelines, distribution systems, wells and other appurtenant works.

(4) Present and projected population in 10, 25, and 50 years.

(5) The amount of the present and proposed use in the following categories, and the time during which water will be required each year if the requirements differ seasonally:

(a) Domestic water use;

(b) Community water uses including specific amounts for attendant commercial, industrial and irrigation uses;

(c) Other(s) as specified.

(6) Copy of a coordinated water system plan, or comprehensive plan under WAC 248-54-280 if water systems are sufficiently separated so that no advantages will be realized by coordination. All review comments

from the local A-95 clearinghouse on said plan shall be provided.

(7) Information to justify the requested reservation quantity in the form of official state population estimates, regional plan or engineering reports.

(8) A summary of ongoing and planned conservation programs. When applicable, this must summarize water usage for the previous five years including total water diverted or withdrawn, total water sold, and the quantities used by residential, wholesale and large industrial users. Status of metering of all services must be described. Rate structures should not encourage waste of the water resources and should be described.

(9) Other data as may be required by the director.

[Order DE 75-32, § 173-590-070, filed 3/10/76.]

WAC 173-590-080 Record of petition. The department shall maintain a file of all petitions for reservation of water under the provisions of this chapter. If a petition is returned to the petitioner for completion or correction, the date and the reasons for the return thereof shall be endorsed and shall be recorded in the reservation file.

[Order DE 75-32, § 173-590-080, filed 3/10/76.]

WAC 173-590-090 Notice. Upon receipt of a proper petition, the director shall publish notice thereof in a newspaper or newspapers of general circulation in the county or counties in which the storage, diversion, and use is to be made, once a week for two consecutive weeks.

The director shall send notice thereof to the secretary, department of social and health services, and to the directors of the departments of fisheries and wildlife for the purpose of soliciting their comments.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-590-090, filed 6/9/88; Order DE 75-32, § 173-590-090, filed 3/10/76.]

WAC 173-590-100 Investigation. When a petition is received, the director shall conduct an investigation of the surrounding impacts of the proposed reservation.

[Order DE 75-32, § 173-590-100, filed 3/10/76.]

WAC 173-590-110 Reservation. Upon review of a petition for reservation, related data and the results from the departmental investigation, the director shall notify the petitioner of action pertaining to the petition, to withdraw affected waters under RCW 90.54.050(2), or to reserve water(s). If reservation is deemed appropriate, the director shall take action to adopt a regulation or amend an existing regulation established pursuant to chapter 173-500 WAC to reserve water for a future public water supply for the general geographic area described in the petition or for a general area the director determines appropriate. (RCW 90.54.050 mandates the department to conduct a public hearing, prior to adoption of a rule to withdraw or to reserve in each county in which waters relating to the rule are located.)

The amount of the reservation shall be determined by the director and may be more or less than the amount

requested in the petition. The total reservation amount may be prorated to specific subareas of service in the proposed development area. Appropriate map may be appended to regulation.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-590-110, filed 6/9/88; Order DE 75-32, § 173-590-110, filed 3/10/76.]

WAC 173-590-120 Compatibility with existing water resources program. Reservation of waters pursuant to this chapter and other elements of a comprehensive water resources program developed pursuant to chapters 173-500 through 173-562 WAC and amendments thereof shall be compatible.

[Order DE 75-32, § 173-590-120, filed 3/10/76.]

WAC 173-590-130 Separate reservation by use. In situations where a given area will require significant quantities of water for other than community and domestic water uses, the reservation may identify separate quantities for each use.

[Order DE 75-32, § 173-590-130, filed 3/10/76.]

WAC 173-590-140 Reservation subject to review and change. From time to time, any reservation established under this chapter shall be reviewed and, when it appears appropriate to the department in implementing RCW 90.54.050, modified. No change shall be made without consultation of interested parties. The water resource program and the coordinated water system plan shall be reviewed whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-590-140, filed 6/9/88; Order DE 75-32, § 173-590-140, filed 3/10/76.]

WAC 173-590-150 Effective date of reservation. The effective date of a reservation established under the provisions of this chapter shall be the date when a regulation pertaining to a specific reservation has been adopted: *Provided*, That the effective date for any additional amount of reservation pursuant to the provisions of WAC 173-590-140 shall be the date when such subsequent amendments become effective.

[Order DE 75-32, § 173-590-150, filed 3/10/76.]

WAC 173-590-160 Application for water rights. With regard to any permit issued pursuant to RCW 90.03.290 and 90.44.060 which authorizes withdrawal and use of waters subject of a regulation provided for in WAC 173-590-110 hereof, the priority date of said permit shall be the effective date of said regulation.

[Order DE 75-32, § 173-590-160, filed 3/10/76.]

WAC 173-590-170 Reservation without petition--Hearings. Whenever it appears necessary, the director may reserve and set aside waters for beneficial utilization in the future on his own motion as provided under RCW 90.54.050(1). In so doing, prior to the adoption of such rule, the director shall conduct a public hearing in

each county in which waters relating to such rule are located.

[Order DE 75-32, § 173-590-170, filed 3/10/76.]

WAC 173-590-180 Appeal. The procedures hereof relate solely to rule-making activity of the department and are designed to obtain information to assist the department in determining when waters should be reserved as provided in RCW 90.54.050. Actions conducted under this chapter do not relate to contested cases within the meaning of the Administrative Procedure Act, chapter 34.04 RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-590-180, filed 6/9/88; Order DE 75-32, § 173-590-180, filed 3/10/76.]

WAC 173-590-190 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-590-190, filed 6/9/88.]

Chapter 173-591 WAC

RESERVATION OF FUTURE PUBLIC WATER SUPPLY FOR THURSTON COUNTY

WAC

- 173-591-010 Purpose.
- 173-591-020 Authority.
- 173-591-030 General.
- 173-591-040 Reservation area defined.
- 173-591-050 Definitions.
- 173-591-060 Petition received—Notice.
- 173-591-070 Reservation.
- 173-591-080 Future nonpublic water supply—Policy uses.
- 173-591-090 Monitoring program.
- 173-591-100 Water quality.
- 173-591-110 Exemptions.
- 173-591-115 Appeals.
- 173-591-120 Regulation review.
- 173-591-130 Reservation boundary maps.

WAC 173-591-010 Purpose. The purpose of this chapter is to reserve ground waters within Thurston County for future public water supply.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-010, filed 7/14/86.]

WAC 173-591-020 Authority. This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW and chapter 173-590 WAC.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-020, filed 7/14/86.]

WAC 173-591-030 General. (1) These rules shall apply to ground waters in Thurston County, as defined in WAC 173-591-040 and 173-591-070(4), as specified in Figure II-2 of the coordinated water system plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purposes

of reserving ground waters for future public supply, and as shown as the reservation source of supply subareas on the Thurston County reservation source of supply subarea boundary map in WAC 173-591-130, Illus. 2.

(2) The reservation adopted under this chapter will be for the specific geographical area so named the "reservation boundaries" as shown in Figure II-1 of the coordinated water supply plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purposes of reserving ground waters for future public water supply, and shown on the Thurston County reservation area boundary map in WAC 173-591-130, Illus. 1.

(3) Appropriation of reserved waters under this chapter shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW and chapter 173-513 WAC Instream resources protection program—Deschutes River Basin, Water Resource Inventory Area (WRIA) 13 (adopted 6/24/80) and chapter 173-511 WAC Instream resources protection program—Nisqually River Basin, Water Resource Inventory Area (WRIA) 11 (adopted 2/2/81) and chapter 173-514 WAC Instream resources protection program—Kennedy-Goldsborough Water Resource Inventory Area (WRIA 14) (adopted 1/23/84).

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-030, filed 7/14/86.]

WAC 173-591-040 Reservation area defined. "Thurston County reservation area" and "Thurston County reservation source of supply area" shall mean those lands lying within Thurston County described as follows:

Location	Township	Range	Sections
Reservation Area	16N	3W	1-3, 10-12
		2W	1-12
		1W	4-9
	17N	3W	1, 2, 3 (portion), 10-15, 22-27, 34-36
		2W	1-36
	17N	1W	1-21, 27 (portion), 28-33
		1E	6, 7, portions of 3, 8, 18
	18N	3W	1-4, 9-16, 21 (portion), 22 (portion), 23-25, 36
	18N	1W	1-36
		1E	6, 7, 17-20, 29-32, portions of 5, 8, 16, 28
	19N	3W	12, 13, 23-28, 33-36, (portions in Thurston County)
		2W	portion in Thurston County
	19N	1W	portion in Thurston County
1E		portion in Thurston County	
Reservation Source of Supply Area			
Airport	17N	2W	3, 10-15, 22-24 & portions of 9, 16, 21 east of Interstate 5
		2W	34
Allison Springs	18N	2W	18

Location	Township	Range	Sections
Black Lake	17N	2W	4-8, 17-20, 29-31 & portions of 9, 16, 21, 18 & 33 west of Interstate 5
	18N	2W	31-33
Deschutes Valley	17N	2W	12
	18N	2W	25, 26, 35, 36
Hawks Prairie	18N	1W	1-8 & portions of 9-12 north of Interstate 5
	19N	1W	25-36
	18N	1E	portion of 6 west of Nisqually River
	19N	1E	portions of 30 & 31 west of Nisqually River
McAllister Springs	18N	1E	19
Mottman Industrial Park	18N	2W	27-29
Southeast	17N	1W	2-11, 14-23
	18N	1W	19-21, 28-34

[Statutory Authority: RCW 90.54.050(1), 86-15-029 (Order DE-86-16), § 173-591-040, filed 7/14/86.]

WAC 173-591-050 Definitions. For the purpose of this chapter the following definitions shall be used:

(1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, fire fighting, and attendant commercial, industrial and irrigation uses.

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

(3) "Department" means the department of ecology unless otherwise specified.

(4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses.

(5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan adopted by utilities covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water

resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity, including a federal or state agency or county which operates a public water supply system or who contemplates such an operation.

[Statutory Authority: RCW 90.54.050(1), 86-15-029 (Order DE-86-16), § 173-591-050, filed 7/14/86.]

WAC 173-591-060 Petition received—Notice. A petition requesting the reservation of ground waters in Thurston County pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Thurston County for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, wildlife, and social and health services for the purpose of soliciting their comments.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW, 88-13-037 (Order 88-11), § 173-591-060, filed 6/9/88. Statutory Authority: RCW 90.54.050(1), 86-15-029 (Order DE-86-16), § 173-591-060, filed 7/14/86.]

WAC 173-591-070 Reservation. (1) The department, having received a final environmental impact statement dated January 16, 1985, and having conducted an investigation of the surrounding impacts of the proposed reservation and having heard comments solicited through the notice of receipt of petition and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does hereby reserve portions of those ground waters for future public water supplies in Thurston County.

(2) The department finds that to provide peaking capacity on a daily basis the appropriate amount of the reservation shall be 40,589 gallons per minute, limited to a maximum annual withdrawal of 22,931 acre-feet/year, provided that the total annual withdrawal and diversion from all sources shall not exceed 48,225 acre-feet/year. This is intended to serve the estimated population of 288,092 in fifty years. The amount of this reservation shall be reviewed by the department whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

(3) A map showing the reservation area boundary is shown in Figure II-1 of the coordinated water system plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purposes of reserving water for future public water supply purposes, and shown as the reservation area boundary map in WAC 173-591-130, Illus. 1.

(4) Due to the nature of the geographic distribution of the ground waters to be reserved and the development patterns that are anticipated in Thurston County, the

reserved ground waters are intended to be beneficially utilized from the unconsolidated materials overlying bedrock, and are prorated to the subareas designated in Figure V-1 of the coordinated water system plan for Thurston County, dated May 1982, as approved by the department of social and health services for the purpose of reserving water for future public water supply purposes, and shown as the reservation source of supply subareas map in WAC 173-591-130, Illus. 2. The reserved ground waters are generally prorated to the reservation source of supply subareas as follows, with the totaled reserved quantity to be obtained from within the boundary area.

Source Location	Reservation Quantities	
	Instantaneous (GPM)	Annual (Af/Yr)
Airport	2,500	1,486
Allison Springs	2,000	1,888
Black Lake	2,000	1,888
Deschutes Valley	1,969	1,170
Hawks Prairie	7,000	4,160
McAllister Springs	2,000	—
Mottman Indust. Park	2,000	1,888
Southeast	14,426	8,573
Total	40,589	22,931

(5) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.070 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(6) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters for each subarea identified in subsection (4) of this section and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(7) No permit issued as described in subsection (5) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-591-070, filed 6/9/88. Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-070, filed 7/14/86.]

WAC 173-591-080 Future nonpublic water supply--Policy uses. If applications are made for the use of the ground water reserved in WAC 173-591-070(2) for purposes other than public water supplies, as defined in WAC 173-591-050 (6) and (7), the director may issue a permit allowing such uses but these uses shall be junior in priority to all rights issued pursuant to WAC 173-591-070. Interim uses authorized in this section may be reduced or curtailed in right when necessary to allow to full utilization of higher priority rights established in WAC 173-591-070. The department may limit or otherwise condition junior water rights permits as necessary to ensure availability of the reserved ground

waters for public water supply purposes consistent with this chapter.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-080, filed 7/14/86.]

WAC 173-591-090 Monitoring program. (1) The department, in cooperation with local government agencies, shall implement a comprehensive monitoring program, the purpose of which is to maintain accurate information on the quality and quantity of ground water reserved in WAC 173-591-070(2).

(2) Under this monitoring program surface and ground water levels will be periodically recorded as well as the levels of any lakes that are maintained by ground waters.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-090, filed 7/14/86.]

WAC 173-591-100 Water quality. As a general rule, an element of a ground water right is the right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities, construction methods, water use, or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state. Local governments with land use authority are urged to exercise their authorities in such a manner as to protect the quality of the public ground waters reserved for future public water supply by this chapter.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-100, filed 7/14/86.]

WAC 173-591-110 Exemptions. Wells for single family domestic, stock watering, or other purposes for which the withdrawal is less than 5,000 gallons per day, with priority dates subsequent to the effective date of this regulation, shall be junior to rights issued pursuant to WAC 173-591-070. The quantities of water withdrawn by such wells will not be subtracted from the waters reserved by this regulation.

[Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-110, filed 7/14/86.]

WAC 173-591-115 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-591-115, filed 6/9/88.]

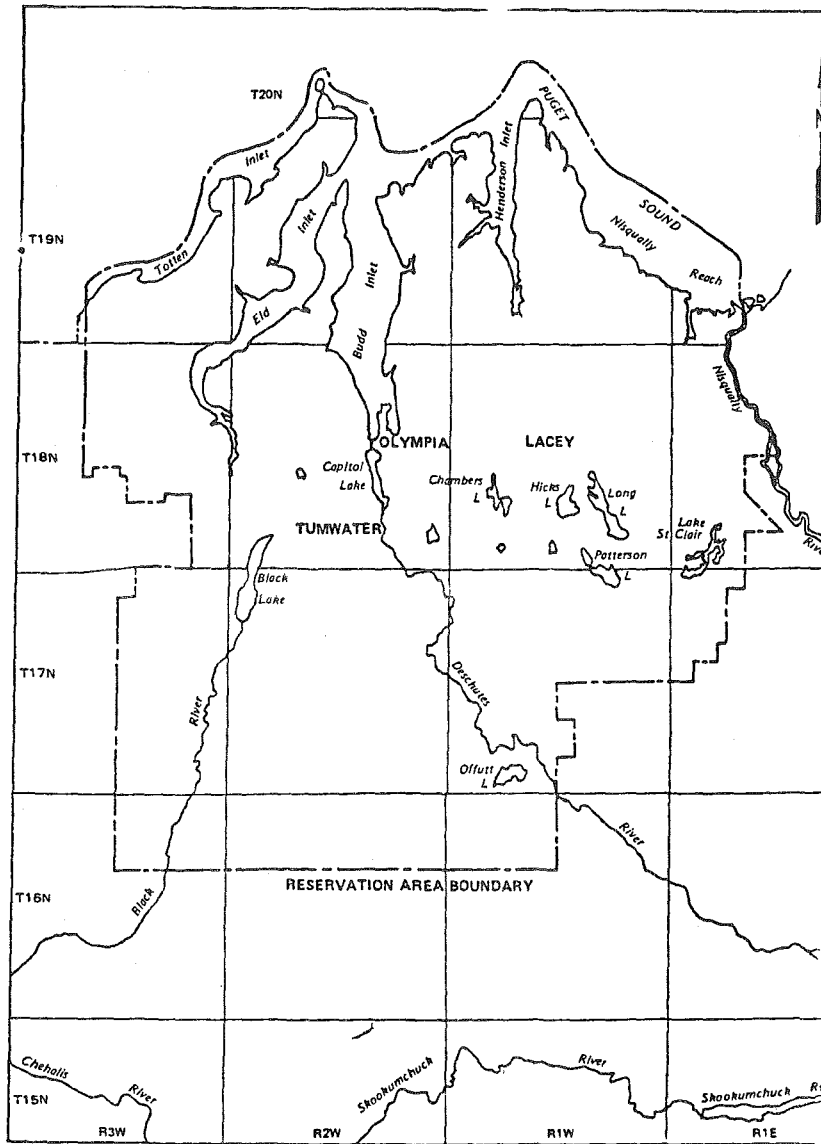
WAC 173-591-120 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information,

changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-591-120, filed 6/9/88. Statutory Authority: RCW 90.54.050(1). 86-15-029 (Order DE-86-16), § 173-591-120, filed 7/14/86.]

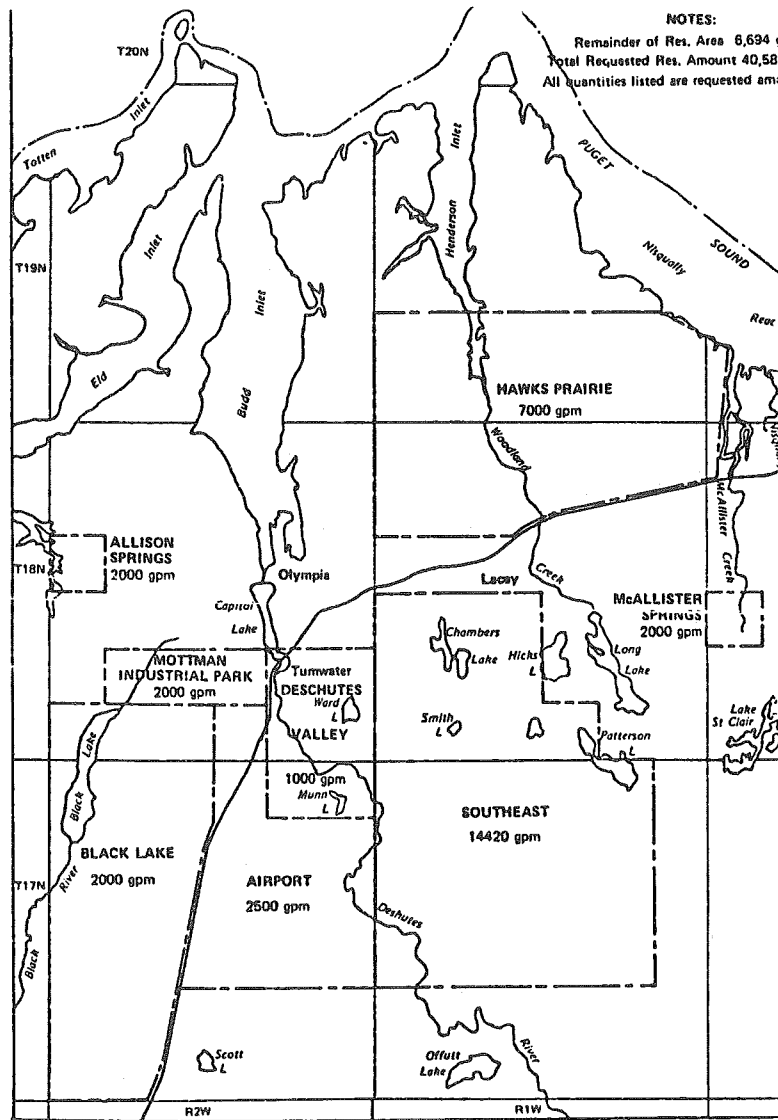
WAC 173-591-130 Reservation boundary maps. Thurston County reservation area and reservation source of supply subareas shall include those lands that lie within the heavy outline on the following maps:

THURSTON COUNTY RESERVATION AREA BOUNDARY MAP



THURSTON COUNTY RESERVATION AREA BOUNDARY MAP
WAC 173-591-130
ILLUSTRATION 1

THURSTON COUNTY RESERVATION SOURCE OF SUPPLY SUBAREAS BOUNDARY MAP



NOTES:
 Remainder of Res. Area 6,694 gpm
 Total Requested Res. Amount 40,580 gpm
 All quantities listed are requested amc.

THURSTON COUNTY RESERVATION SOURCE OF SUPPLY SUBAREAS BOUNDARY MAP
 WAC 173-591-130
 ILLUSTRATION 2

[Statutory Authority: RCW 90.54.050(1), 86-15-029 (Order DE-86-16), § 173-591-130, filed 7/14/86.]

173-592-110 Regulation review.
 173-592-115 Appeals.
 173-592-120 Reservation source of supply area map.

Chapter 173-592 WAC
RESERVATION OF FUTURE PUBLIC WATER
SUPPLY FOR CLARK COUNTY

- WAC
- 173-592-010 Purpose.
 - 173-592-020 Authority.
 - 173-592-030 General.
 - 173-592-040 Reservation source of supply area defined.
 - 173-592-050 Definitions.
 - 173-592-060 Petition received—Notice.
 - 173-592-070 Reservation.
 - 173-592-080 Monitoring program.
 - 173-592-090 Water quality.
 - 173-592-100 Exemptions.

WAC 173-592-010 Purpose. The purpose of this chapter is to reserve ground waters within Clark County for future public water supply.

[Statutory Authority: RCW 90.54.050(1), 86-15-030 (Order DE-86-17), § 173-592-010, filed 7/14/86.]

WAC 173-592-020 Authority. This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW and chapter 173-590 WAC.

[Statutory Authority: RCW 90.54.050(1), 86-15-030 (Order DE-86-17), § 173-592-020, filed 7/14/86.]

WAC 173-592-030 General. (1) These rules shall apply to ground waters in Clark County, as defined in

WAC 173-592-040 and 173-592-070(5) as specified in the coordinated water system plan for Clark County, dated March, 1983, and approved by the department of social and health services for the purposes of reserving ground waters for future public supply. The location of the reserved waters is further defined in Attachment 1A of the revised petition requesting reservation of ground waters for future public water supply purposes, dated August 12, 1985, and shown on the reservation source of supply area boundary map in WAC 173-592-120, Illus. 1.

(2) Appropriation of reserved waters under this chapter shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW.

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-030, filed 7/14/86.]

WAC 173-592-040 Reservation source of supply area defined. "Clark County reservation source of supply area" shall mean those lands lying within Clark County described as follows:

Township	Range	Sections
2N	1W	1, 2, 11, 12, 13, 24
3N	1W	1, 2, 12, 13, 24, 25, 36
4N	1W	1, 2, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35, 36
5N	1W	36
2N	1E	1-29, 34-36
3N	1E	1-36
4N	1E	1-36
5N	1E	31-36
1N	2E	1-5, 11, 12
2N	2E	1-36
3N	2E	1-36
4N	2E	1-36
5N	2E	31-36
1N	3E	1-17
2N	3E	1-36
3N	3E	1-36
4N	3E	1-36
5N	3E	31-36
1N	4E	1-18, 20-24
2N	4E	6, 7, 18, 19, 25-36
3N	4E	6, 7, 18, 19, 30, 31
4N	4E	6, 7, 18, 19, 30, 31
5N	4E	31

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-040, filed 7/14/86.]

WAC 173-592-050 Definitions. For the purpose of this chapter the following definitions shall be used:

(1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, fire fighting, and attendant commercial, industrial, and irrigation uses.

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

(3) "Department" means the department of ecology unless otherwise specified.

(4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary

purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses.

(5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling, and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission, and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan developed by utilities and adopted by Clark County and approved by the department of social and health services covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity, including a federal or state agency or county which operates a public water supply system or who contemplates such an operation.

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-050, filed 7/14/86.]

WAC 173-592-060 Petition received--Notice. A revised petition, dated August 12, 1985, requesting the reservation of ground waters in Clark County pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services, dated March, 1983, were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Clark County for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, wildlife, and social and health services for the purpose of soliciting their comments.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-592-060, filed 6/9/88. Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-060, filed 7/14/86.]

WAC 173-592-070 Reservation. (1) The department, having heard comments solicited through the notice of receipt of petition and having reviewed a final declaration of nonsignificance under the authority of WAC 197-11-340 (State Environmental Policy Act)

and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does hereby reserve portions of those ground waters for future public water supplies in Clark County.

(2) The department finds that the appropriate amount of the reservation shall be 97,000 gallons per minute and 65,300 acre-foot/year. This is intended to serve the estimated population of 629,200 in fifty years. The amount of this reservation shall be reviewed by the department in consultation with local government whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

(3) A map showing the reservation source of supply boundaries is shown in Attachment 1A of the revised petition, dated August 12, 1985, requesting reservation of ground water in Clark County for future public water supplies. The map showing the reservation source of supply area boundary is incorporated in this regulation in WAC 173-592-120, Illus. 1.

(4) Waters reserved herein may be utilized within the geographical boundaries of Clark County consistent with the department of social and health services approved coordinated water system plan, dated March 1983.

(5) Due to the nature of the geographic distribution of the ground waters to be reserved in Clark County, the reserved ground waters are intended to be beneficially utilized from the following aquifers, as identified in Attachment 1A of the revised petition, dated August 12, 1985:

- 1A Columbia River Alluvium
- 1B-2B Upper Troutdale
- 1C Sandy River Mudstone

(6) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.060 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(7) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters, and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(8) No permit issued as described in subsection (6) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-592-070, filed 6/9/88. Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-070, filed 7/14/86.]

(1989 Ed.)

WAC 173-592-080 Monitoring program. (1) The department, in cooperation with local government agencies, shall implement a comprehensive monitoring program, the purpose of which is to maintain accurate information on the quality and quantity of ground water reserved in WAC 173-592-070(2).

(2) Under this monitoring program surface and ground water levels will be periodically recorded as well as the levels of any lakes that are maintained by ground waters.

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-080, filed 7/14/86.]

WAC 173-592-090 Water quality. As a general rule, an element of a ground water right is the right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities, construction methods, water use, or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state. Local governments with land use authority shall be urged to exercise their authorities in such a manner as to protect the quality of the public ground waters reserved for future public water supply by this chapter.

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-090, filed 7/14/86.]

WAC 173-592-100 Exemptions. Wells for single family domestic, stock watering, or other purposes, for which the withdrawal is less than 5,000 gallons per day, with priority dates subsequent to the effective date of this regulation, shall be junior to it, and the quantities of water withdrawn by exempted wells will not be subtracted from the waters reserved by this regulation.

[Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-100, filed 7/14/86.]

WAC 173-592-110 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-592-110, filed 6/9/88. Statutory Authority: RCW 90.54.050(1). 86-15-030 (Order DE-86-17), § 173-592-110, filed 7/14/86.]

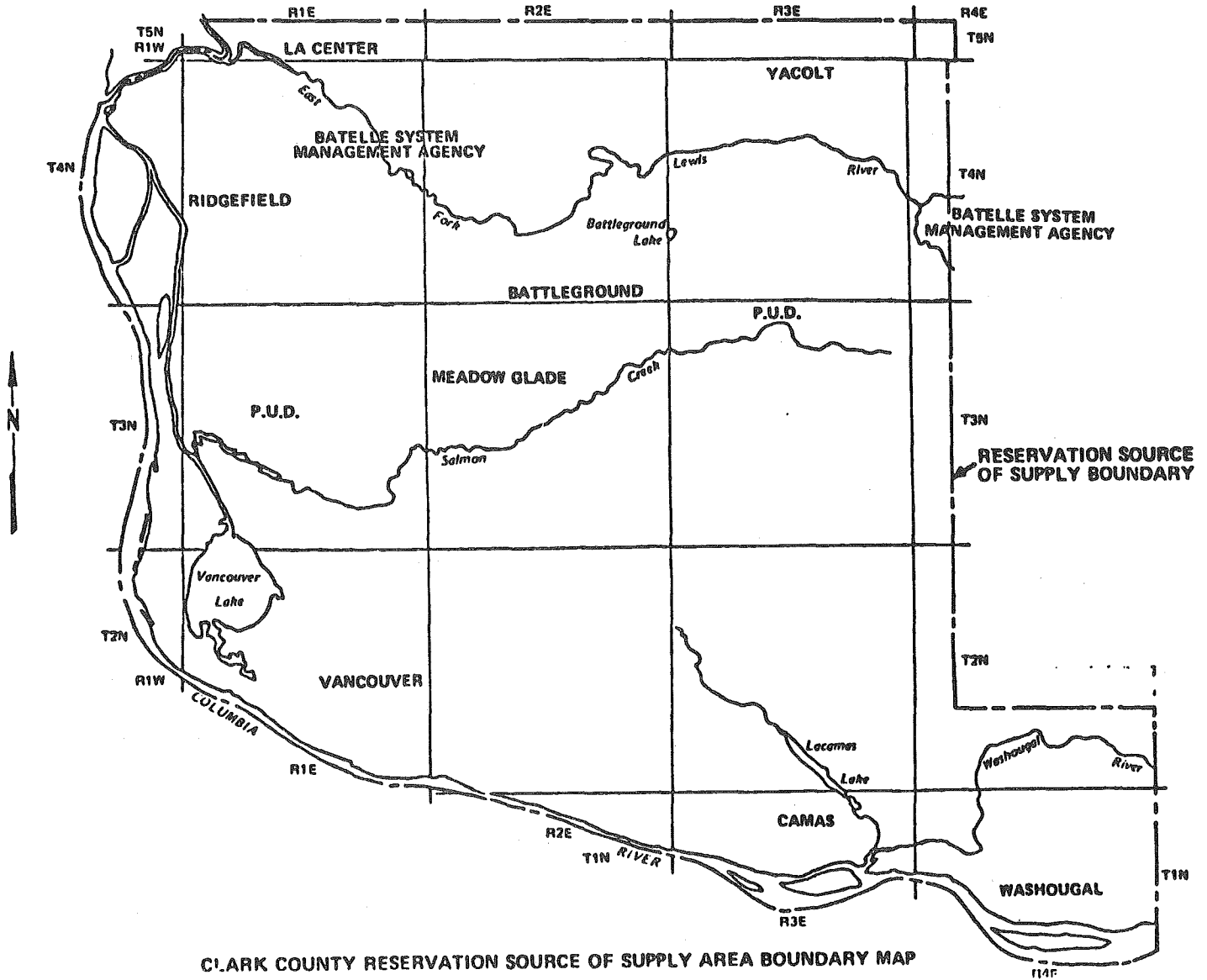
WAC 173-592-115 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43-21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-592-115, filed 6/9/88.]

[Title 173 WAC—p 685]

WAC 173-592-120 Reservation source of supply area map. Clark County reservation source of supply area shall include those lands that lie with the heavy outline on the following map:

CLARK COUNTY RESERVATION SOURCE OF SUPPLY AREA BOUNDARY MAP



CLARK COUNTY RESERVATION SOURCE OF SUPPLY AREA BOUNDARY MAP

[Statutory Authority: RCW 90.54.050(1), 86-15-030 (Order DE-86-17), § 173-592-120, filed 7/14/86.]

**Chapter 173-802 WAC
SEPA PROCEDURES**

WAC

- 173-802-010 Authority.
- 173-802-020 Adoption by reference.
- 173-802-030 Purpose.
- 173-802-040 Additional definitions.
- 173-802-050 Designation of responsible official.

- 173-802-060 Additional timing considerations.
- 173-802-070 Threshold determination process—Additional considerations.
- 173-802-080 Mitigated DNS.
- 173-802-090 EIS preparation.
- 173-802-100 Public notice requirements.
- 173-802-110 Policies and procedures for conditioning or denying permits or other approvals.
- 173-802-120 Environmentally sensitive areas.
- 173-802-130 Threshold levels adopted by cities/counties.
- 173-802-140 Responsibilities of individuals and work units within the department.
- 173-802-150 Coordination on combined department—Federal action.
- 173-802-190 Severability.

WAC 173-802-010 Authority. These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-010, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-020 Adoption by reference. The department of ecology adopts the following sections or subsections of chapter 197-11 WAC by reference.

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping. (Optional)
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.
- 197-11-440 EIS contents.
- 197-11-442 Contents of EIS on nonproject proposals.
- 197-11-443 EIS contents when prior nonproject EIS.
- 197-11-444 Elements of the environment.
- 197-11-448 Relationship of EIS to other considerations.
- 197-11-450 Cost-benefit analysis.
- 197-11-455 Issuance of DEIS.
- 197-11-460 Issuance of FEIS.
- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.
- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement—Procedures.
- 197-11-625 Addenda—Procedures.
- 197-11-630 Adoption—Procedures.
- 197-11-635 Incorporation by reference—Procedures.
- 197-11-640 Combining documents.
- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.
- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.
- 197-11-708 Adoption.
- 197-11-710 Affected tribe.
- 197-11-712 Affecting.
- 197-11-714 Agency.
- 197-11-716 Applicant.
- 197-11-718 Built environment.
- 197-11-720 Categorical exemption.
- 197-11-722 Consolidated appeal.
- 197-11-724 Consulted agency.
- 197-11-726 Cost-benefit analysis.
- 197-11-728 County/city.
- 197-11-730 Decisionmaker.
- 197-11-732 Department.
- 197-11-734 Determination of nonsignificance (DNS).
- 197-11-736 Determination of significance (DS).
- 197-11-738 EIS.
- 197-11-740 Environment.
- 197-11-742 Environmental checklist.
- 197-11-744 Environmental document.
- 197-11-746 Environmental review.
- 197-11-748 Environmentally sensitive area.
- 197-11-750 Expanded scoping.
- 197-11-752 Impacts.
- 197-11-754 Incorporation by reference.
- 197-11-756 Lands covered by water.
- 197-11-758 Lead agency.
- 197-11-760 License.
- 197-11-762 Local agency.
- 197-11-764 Major action.
- 197-11-766 Mitigated DNS.
- 197-11-768 Mitigation.
- 197-11-770 Natural environment.
- 197-11-772 NEPA.
- 197-11-774 Nonproject.
- 197-11-776 Phased review.
- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
- 197-11-784 Proposal.
- 197-11-786 Reasonable alternative.
- 197-11-788 Responsible official.
- 197-11-790 SEPA.
- 197-11-792 Scope.
- 197-11-793 Scoping.

- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.
- 197-11-800 Categorical exemptions.
- 197-11-810 Exemptions and nonexemptions applicable to specific state agencies.
- 197-11-855 Department of ecology.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.
- 197-11-900 Purpose of this part.
- 197-11-908 Environmentally sensitive areas.
- 197-11-912 Procedures on consulted agencies.
- 197-11-916 Application to ongoing actions.
- 197-11-917 Relationship to chapter 197-10 WAC.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-020, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-030 Purpose. This chapter implements the state-wide rules in chapter 197-11 WAC as they apply to the department of ecology.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-030, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-040 Additional definitions. In addition to the definitions contained in WAC 197-11-700 through 197-11-799, the following terms shall have the listed meanings:

(1) "Office" means one of the five offices in the department of ecology supervised by an assistant director.

(2) "Region" means any one of the four regional offices of the department.

(3) "Program" means any one of the department's headquarters sections or divisions that administers a program, such as water quality, water resources, shorelands, and hazardous waste.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-040, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-050 Designation of responsible official. Within the department of ecology, the ultimate responsible official is the director. The responsible official for a specific proposal shall be the person who has been delegated signature authority per WAC 173-06-030, unless more than one person has such authority in a proposal; if so, the responsible official shall be either the next higher supervisor common to all involved persons, or any senior professional staff designated by the deputy director.

[Statutory Authority: Chapter 43.21A RCW. 89-11-021 (Order 89-6), § 173-802-050, filed 5/11/89. Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-050, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-060 Additional timing considerations. (1) Department staff receiving a permit application will determine whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the staff person should ask the applicant to complete an environmental checklist. A checklist is not needed if the department and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application. The applicant should also complete an environmental checklist if the staff person is unsure whether the proposal is exempt.

(2) Department staff receiving a completed permit application and environmental checklist should determine whether WDOE or another agency is SEPA lead agency (see WAC 197-11-050 and 197-11-922 through 197-11-940) within five working days. If WDOE is not the lead agency, the staff person shall send the completed environmental checklist, a copy of the permit application, to the lead agency, and an explanation of the determination to the identified lead agency.

(3) When the department has prepared a draft regulation, the draft EIS or determination of nonsignificance (DNS) shall accompany the draft regulation to the ecological commission for its review.

(4) If the only nonexempt action is department approval of detailed project plans and specifications, an applicant may request that the department complete SEPA compliance before the applicant submits the detailed plans and specifications. If the applicant asks for

early environmental review, the department shall complete such review at the final engineering report stage, but not earlier.

(5) Whenever possible, the department shall coordinate the comment periods for environmental documents and the planning documents and/or regulations for which they were written, circulating both documents together.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-060, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-070 Threshold determination process—Additional considerations. When reviewing a completed environmental checklist to make the threshold determination, the responsible official or his designee will:

(1) Independently evaluate the responses of the applicant and note comments, concerns, corrections, or new information in the right margin of the checklist.

(2) Conduct the initial review of the checklist and any supporting documents without requiring additional information from the applicant.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-070, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-080 Mitigated DNS. (1) An applicant may ask the department whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(c) Precede the department's actual threshold determination for the proposal.

(2) The responsible official or his designee shall respond to the request within ten working days of receipt of the letter; the response shall:

(a) Be written;

(b) State whether the department is considering issuance of a DS;

(c) Indicate the general or specific area(s) of concern that led the department to consider a DS; and

(d) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The department shall not continue with the threshold determination until after receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the department will make its threshold determination based on the changed or clarified proposal.

(a) If the department's response to the request for early notice indicated specific mitigation measures that

would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the department shall issue a determination of nonsignificance and circulate the DNS for comments as in WAC 197-11-350(2).

(b) If the department indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the department shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The department may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the department shall issue a DNS and circulate it for review under WAC 197-11-350(2).

(6) When an applicant changes or clarifies the proposal, the clarifications or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s), the department may require the applicant to submit a new checklist.

(7) The department may change or clarify features of its own proposals before making the threshold determination.

(8) The department's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the department to consider the clarifications or changes in its threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes, including enforcement of the permit or other approval. Unless the department's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-080, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-090 EIS preparation. (1) Preparation of draft and final EISs and SEISs is the responsibility of the environmental review section. Before the department issues an EIS, the responsible official shall be satisfied that it complies with these rules and chapter 197-11 WAC.

(2) The department normally will prepare its own draft and final EISs. It may require an applicant to provide information that the department does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under these rules.

(3) If the department would be unable to prepare a draft and/or final EIS due to its commitments or other constraints or when a local agency transfers lead agency status to the department under WAC 197-11-940, the department may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:

(a) The department retains a mutually agreed upon and independent outside party to prepare the document.

(b) The applicant and the department agree upon a method of funding in which the applicant will bear the expense of the EIS preparation, but the consultant will work directly for the department.

(c) The outside party will prepare the document under the supervision of the environmental review section and the responsible official.

(d) Normally, the department will print and distribute the documents.

(4) Whenever someone other than the department prepares a draft or final EIS, the department shall:

(a) Direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by any agency or person.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.

(d) Allow the person preparing the EIS access to department records relating to the EIS (under chapter 42.17 RCW—Public disclosure and public records law).

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-090, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-100 Public notice requirements. (1) The department shall give public notice when issuing a DNS under WAC 197-11-350(2), a scoping notice under WAC 173-802-090, or a draft EIS under WAC 197-11-455.

(2) Whenever possible, the department shall integrate the public notice required under this section with existing notice procedures for the department's permit or approval required for the proposal.

(a) When more than one permit or approval required from the department has public notice requirements, the notice procedures that would reach the widest audience should be used, if possible.

(b) If the public notice requirements for the permit or approval must be completed at a specific time in the permitting process and that timing does not coincide with the timing requirements for SEPA public notice, the department must use one or more public notice methods in subsection (4) of this section.

(c) If there are no public notice requirements for any of the permits/approvals required for a proposal, the department must use one or more public notice methods in subsection (4) of this section.

(3) The department may require an applicant to perform the public notice requirement at his or her expense.

(4) The department shall use one or more of the following methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Mailing to persons or groups who have expressed interest in the proposal, that type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-100, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-110 Policies and procedures for conditioning or denying permits or other approvals.

(1)(a) The overriding policy of the department of ecology is to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department of ecology shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(d) The department shall ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations.

(2)(a) When the environmental document for a proposal shows it will cause significant adverse impacts that

the proponent does not plan to mitigate, the responsible official shall consider whether:

(i) The environmental document identified mitigation measures that are reasonable and capable of being accomplished;

(ii) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and

(iii) Reasonable mitigation measures are sufficient to mitigate the significant adverse impacts.

(b) The responsible official may:

(i) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(ii) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(c) The procedures in WAC 197-11-660 must also be followed when conditioning or denying permits or other approvals.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-110, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-120 Environmentally sensitive areas.

(1) In determining whether a proposal is exempt from SEPA, the department shall respect "environmentally sensitive area" designations made by local governments under WAC 197-11-908.

(2) The department shall maintain files of the maps and SEPA procedures that cities/counties must send to the department under WAC 197-11-908. The department shall allow the public, groups, and agencies to review these SEPA procedures and maps during normal business hours.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-120, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-130 Threshold levels adopted by cities/counties.

(1) In determining whether a proposal is exempt from SEPA, the department shall respect the threshold levels adopted by cities/counties under WAC 197-11-800(1).

(2) The department shall maintain files of the SEPA procedures that cities/counties must send to the department under WAC 197-11-800 (1)(c). The department shall allow the public, groups, and agencies access to these SEPA procedures during normal business hours.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-130, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-140 Responsibilities of individuals and work units within the department.

(1) The environmental review section of the department shall be responsible for the following:

(a) Coordinating agency activities to comply with SEPA, encouraging consistency in SEPA compliance among all regions and programs.

(b) Providing information and guidance on SEPA and the SEPA rules to department staff, agencies, groups, and citizens.

(c) Receiving all SEPA documents sent to the department for review and comment, distributing documents and coordinating review with appropriate regions and programs, preparing the department's response, ensuring a timely response, and requesting extensions to the comment period of an EIS, when needed.

(d) Preparing and publishing the SEPA register weekly as required under WAC 197-11-508.

(e) Maintaining the department's files for EISs, DNSs, scoping notices, and notices of action sent to the department under SEPA and the SEPA rules.

(f) Maintaining files for the city/county SEPA procedures designating environmentally sensitive areas and flexible thresholds and making the information available to department staff and the public.

(g) Writing and/or coordinating EIS preparation, including scoping and the scoping notice, making sure to work with appropriate regions and programs.

(h) Preparing for, coordinating, and presenting annual SEPA workshops and publishing an annual SEPA handbook.

(i) Publishing and distributing the SEPA rules and amending the SEPA rules, as necessary.

(j) Responding to petitions for changes in exemptions from SEPA.

(k) Responding to petitions to resolve lead agency disputes.

(l) Fulfilling the department's other general responsibilities under SEPA and the SEPA rules.

(2) Regional offices and programs of the department shall be responsible for the following:

(a) Determining whether their decision on a permit or other approval, program, policy, plan, or regulation is an "action" under SEPA and, if so, whether it is exempt from SEPA's requirements (the first department official contacted may make these determinations).

(b) Determining whether WDOE or another agency is SEPA lead agency, contacting the environmental review section if there is a question about which agency is the lead agency.

(c) Making the threshold determination (made by the responsible official, see WAC 173-802-050).

(i) Issuing a determination of nonsignificance, if appropriate (issued by responsible official) and ensuring compliance with the public notice requirements of WAC 173-802-100; or

(ii) Contacting the environmental review section if a determination of significance is appropriate.

(d) Reviewing SEPA documents and submitting comments to the environmental review section in a timely fashion, recognizing that SEPA and the SEPA rules impose strict time limits on commenting.

(e) Working with the environmental review section on preparation of EISs.

(f) Ensuring that permit decisions are consistent with the final EIS and DNS.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-140, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-150 Coordination on combined department—Federal action. When the department is considering an action which also involves federal actions, it shall attempt to coordinate the two governmental processes so that only one environmental impact statement need be prepared for that proposal.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-150, filed 6/15/84. Formerly chapter 173-801 WAC.]

WAC 173-802-190 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 43.21C.120 and 43.21C.135. 84-13-037 (Order DE 84-21), § 173-802-190, filed 6/15/84. Formerly chapter 173-801 WAC.]

**Chapter 173-806 WAC
MODEL ORDINANCE**

WAC

**PART ONE
AUTHORITY**

173-806-010 Authority.

**PART TWO
GENERAL REQUIREMENTS**

- 173-806-020 Purpose of this part and adoption by reference.
- 173-806-030 Additional definitions.
- 173-806-040 Designation of responsible official.
- 173-806-050 Lead agency determination and responsibilities.
- 173-806-053 Transfer of lead agency status to a state agency.
- 173-806-055 Additional considerations in time limits applicable to the SEPA process.
- 173-806-058 Additional timing considerations.

**PART THREE
CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS**

- 173-806-065 Purpose of this part and adoption by reference.
- 173-806-070 Flexible thresholds for categorical exemptions.
- 173-806-080 Use of exemptions.
- 173-806-090 Environmental checklist.
- 173-806-100 Mitigated DNS.

**PART FOUR
ENVIRONMENTAL IMPACT STATEMENT (EIS)**

- 173-806-110 Purpose of this part and adoption by reference.
- 173-806-120 Preparation of EIS—Additional considerations.
- 173-806-125 Additional elements to be covered in an EIS.

**PART FIVE
COMMENTING**

- 173-806-128 Adoption by reference.
- 173-806-130 Public notice.
- 173-806-140 Designation of official to perform consulted agency responsibilities for the city/county.

- PART SIX
USING EXISTING ENVIRONMENTAL DOCUMENTS**
- 173-806-150 Purpose of this part and adoption by reference.

[Title 173 WAC—p 692]

**PART SEVEN
SEPA AND AGENCY DECISIONS**

- 173-806-155 Purpose of this part and adoption by reference.
- 173-806-160 Substantive authority.
- 173-806-170 Appeals.
- 173-806-173 Notice/statute of limitations.

**PART EIGHT
DEFINITIONS**

- 173-806-175 Purpose of this part and adoption by reference.

**PART NINE
CATEGORICAL EXEMPTIONS**

- 173-806-180 Adoption by reference.

**PART TEN
AGENCY COMPLIANCE**

- 173-806-185 Purpose of this part and adoption by reference.
- 173-806-190 Environmentally sensitive areas.
- 173-806-200 Fees.
- 173-806-205 Effective date.
- 173-806-220 Severability.

**PART ELEVEN
FORMS**

- 173-806-230 Adoption by reference.

**PART ONE
AUTHORITY**

WAC 173-806-010 Authority. The city/county of _____ adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.

This ordinance contains this city's/county's SEPA procedures and policies.

The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-010, filed 6/15/84. Formerly WAC 173-805-010.]

**PART TWO
GENERAL REQUIREMENTS**

WAC 173-806-020 Purpose of this part and adoption by reference. This part contains the basic requirements that apply to the SEPA process. The city/county adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-020, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-030 Additional definitions. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this ordinance,

the following terms shall have the following meanings, unless the context indicates otherwise:

(1) "Department" means any division, subdivision or organizational unit of the city/county established by ordinance, rule, or order.

(2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.

(3) "Ordinance" means the ordinance, resolution, or other procedure used by the city/county to adopt regulatory requirements.

(4) "Early notice" means the city's/county's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-030, filed 6/15/84. Formerly WAC 173-805-030.]

WAC 173-806-040 Designation of responsible official. (1) *(Note: Use Option 1 or 2, but not both.) (Option 1)* For those proposals for which the city/county is the lead agency, the responsible official shall be *(Note: Indicate position title, level within city's/county's organization, elected official title or legislative body)* _____.

(Option 2) For public proposals, the head (administrative official) of the department making the proposal shall be the responsible official. For private proposals, the head (administrative official) of the department with primary responsibility for approving the permits and licenses for the proposal shall be the responsible official. When multiple officials have permitting authority, the assignment of responsibility shall be reached by agreement.

(2) For all proposals for which the city/county is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.

(3) The city/county shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-040, filed 6/15/84. Formerly WAC 173-805-115.]

WAC 173-806-050 Lead agency determination and responsibilities. (1) The department within the city/county receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940; unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.

(2) When the city/county is the lead agency for a proposal, the department receiving the application shall determine the responsible official who shall supervise

compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

(3) When the city/county is not the lead agency for a proposal, all departments of the city/county shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No city/county department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city/county may conduct supplemental environmental review under WAC 197-11-600.

(4) If the city/county or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the city/county must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the city/county may be initiated by _____.

(5) Departments of the city/county are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: *Provided*, That the responsible official and any department that will incur responsibilities as the result of such agreement approve the agreement.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (That is: Which agencies require nonexempt licenses?).

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-050, filed 6/15/84. Formerly WAC 173-805-070.]

WAC 173-806-053 Transfer of lead agency status to a state agency. *(Optional for cities or towns under 5,000 population and counties of fifth through ninth class.)* For any proposal for a private project where the city/county would be the lead agency and for which one or more state agencies have jurisdiction, the city's/county's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency and the city/county shall be an agency with jurisdiction. To transfer lead agency duties, the city's/county's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the city/county shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-053, filed 6/15/84. Formerly WAC 173-805-053.]

WAC 173-806-055 Additional considerations in time limits applicable to the SEPA process. The following time limits (expressed in calendar days) shall apply when the city/county processes licenses for all private projects and those governmental proposals submitted to the city/county by other agencies:

(1) (*Optional. Not required under act or rules.*) Categorical exemptions. The city/county shall identify whether an action is categorically exempt within seven days of receiving a completed application.

(2) Threshold determinations.

(a) (*Optional. Further clarification of fifteen-day period for threshold determination.*) The city/county should complete threshold determinations that can be based solely upon review of the environmental checklist for the proposal within fifteen days of the date an applicant's adequate application and completed checklist are submitted.

(b) (*Optional. Not required.*) When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:

(i) The city/county should request such further information within fifteen days of receiving an adequate application and completed environmental checklist;

(ii) The city/county shall wait no longer than thirty days for a consulted agency to respond;

(iii) The responsible official should complete the threshold determination within fifteen days of receiving the requested information from the applicant or the consulted agency.

(c) (*Optional. Not required.*) When the city/county must initiate further studies, including field investigations, to obtain the information to make the threshold determination, the city/county should complete the studies within thirty days of receiving an adequate application and a completed checklist.

(d) (*Optional.*) The city/county shall complete threshold determinations on actions where the applicant recommends in writing that an EIS be prepared, because of the probable significant adverse environmental impact(s) described in the application, within fifteen days of receiving an adequate application and completed checklist.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-055, filed 6/15/84. Formerly WAC 173-805-040.]

WAC 173-806-058 Additional timing considerations. (1) For nonexempt proposals, the DNS or (*Note: Select either draft or final EIS.*) _____ EIS for the proposal shall accompany the city's/county's staff recommendation to any appropriate advisory body, such as the planning commission.

(2) If the city's/county's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the city/county conduct environmental review prior to submission of the detailed plans and specifications. (*Note: The following*

may be added.) The point at which environmental review may be initiated for specific permits or other licenses requiring detailed project plans and specifications is _____.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-058, filed 6/15/84. Formerly chapter 173-805 WAC.]

PART THREE CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

WAC 173-806-065 Purpose of this part and adoption by reference. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The city/county adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-065, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-070 Flexible thresholds for categorical exemptions. (*Note: This section is optional. The lowest exempt level in the ranges below apply unless the city/county raises the level based on local conditions, such as previous DNSs on the activities or city/county development codes. The city/county may raise the level for an exemption to any point up to the maximum specified in WAC 197-11-800 (1)(c); once levels are established in this ordinance, the city/county must apply a level to all projects within the geographic area to which the level applies.*) (1) _____ city/county establishes the following exempt levels for minor new construction under WAC 197-11-800 (1)(b) based on local conditions:

(a) For residential dwelling units in WAC 197-11-800 (1)(b)(i) (*Note: Range 4 - 20 units*): Up to _____ dwelling units.

(b) For agricultural structures in WAC 197-11-800 (1)(b)(ii) (*Note: Range 10,000 - 30,000 square feet*): Up to _____ square feet.

(c) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800 (1)(b)(iii) (*Note: Range 4,000 - 12,000 square feet and 20 - 40 parking spaces*): Up to _____ square feet and up to _____ parking spaces.

(d) For parking lots in WAC 197-11-800 (1)(b)(iv) (Note: Range 20 - 40 parking spaces): Up to ----- parking spaces.

(e) For landfills and excavations in WAC 197-11-800 (1)(b)(v) (Note: Range 100 - 500 cubic yards): Up to ----- cubic yards.

(2) Whenever the city/county establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800 (1)(c).

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-070, filed 6/15/84. Formerly chapter 173-805 WAC.]

WAC 173-806-080 Use of exemptions. (1) Each department within the city/county that receives an application for a license or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The city/county shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the city/county may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

(a) The city/county shall not give authorization for:

- (i) Any nonexempt action;
- (ii) Any action that would have an adverse environmental impact; or
- (iii) Any action that would limit the choice of alternatives.

(b) A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-080, filed 6/15/84. Formerly WAC 173-805-060.]

WAC 173-806-090 Environmental checklist. (1) (Use Option 1 or 2, but not both) (Option 1, using checklist from the rules without changes.) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate,

or other approval not specifically exempted in this ordinance; except, a checklist is not needed if the city/county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city/county shall use the environmental checklist to determine the lead agency and, if the city/county is the lead agency, for determining the responsible official and for making the threshold determination.

(Option 2, adding questions to the checklist.) A completed environmental checklist shall be filed at the same time as an application for a permit, license, certificate, or other approval not exempted in this ordinance; except, a checklist is not needed if the city/county and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The checklist shall be in the form of WAC 197-11-960 with the following additions: (Indicate city's/county's additions.) _____.

(2) For private proposals, the city/county will require the applicant to complete the environmental checklist, providing assistance as necessary. For city/county proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(3) (Optional.) The city/county may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs: (Either one or both of the following may be included.)

(a) The city/county has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-090, filed 6/15/84. Formerly WAC 173-805-090.]

WAC 173-806-100 Mitigated DNS. (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the city's/county's actual threshold determination for the proposal.

(3) The responsible official should respond to the request for early notice within _____ working days. The response shall:

(a) Be written;

(b) State whether the city/county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the city/county to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the city/county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city/county shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:

(a) If the city/county indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city/county shall issue and circulate a DNS under WAC 197-11-340(2).

(b) If the city/county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city/county shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city/county.

(8) If the city's/county's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the city/county should evaluate the threshold determination to assure consistency with WAC 197-11-340 (3)(a) (withdrawal of DNS).

(9) The city's/county's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the city/county to consider the clarifications or changes in its threshold determination.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-100, filed 6/15/84. Formerly chapter 173-805 WAC.]

PART FOUR ENVIRONMENTAL IMPACT STATEMENT (EIS)

WAC 173-806-110 Purpose of this part and adoption by reference. This part contains the rules for preparing environmental impact statements. The city/county adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping. (Optional)
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-110, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-120 Preparation of EIS—Additional considerations. (1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of (*department*) under the direction of the responsible official. Before the city/county issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by city/county staff, the applicant, or by a consultant selected by the city/county or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city/county will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's/county's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(3) The city/county may require an applicant to provide information the city/county does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this ordinance or that is being requested from another agency. (This does not apply to information the city/county may request under another ordinance or statute.)

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-120, filed 6/15/84. Formerly WAC 173-805-100.]

WAC 173-806-125 Additional elements to be covered in an EIS. (*This entire section is optional. If used, you may select any of the listed elements or add your own.*) The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under this ordinance:

- (1) Economy.
- (2) Social policy analysis.
- (3) Cost-benefit analysis.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-125, filed 6/15/84. Formerly WAC 173-805-105.]

PART FIVE COMMENTING

WAC 173-806-128 Adoption by reference. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The city/county adopts the following sections by reference, as supplemented in this part:

WAC

- 197-11-500 Purpose of this part.
- 197-11-502 Inviting comment.
- 197-11-504 Availability and cost of environmental documents.
- 197-11-508 SEPA register.
- 197-11-535 Public hearings and meetings.
- 197-11-545 Effect of no comment.
- 197-11-550 Specificity of comments.
- 197-11-560 FEIS response to comments.
- 197-11-570 Consulted agency costs to assist lead agency.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-128, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-130 Public notice. (*This section is required. Subsections (1) and (2) of this section may be combined.*) (1) Whenever _____ city/county issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the city/county shall give public notice as follows:

(a) If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

(b) If no public notice is required for the permit or approval, the city/county shall give notice of the DNS or DS by: (*Note: Select at least one of the following*)

- (i) Posting the property, for site-specific proposals;
- (ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
- (iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
- (iv) Notifying the news media;

(v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas);

(vii) (*or, specify other method*) _____.

(c) Whenever the city/county issues a DS under WAC 197-11-360(3), the city/county shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(2) Whenever the city/county issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(a) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and (*Note: In addition select at least one of the following or insert all of the list and require that at least one method be used.*)

(b) Posting the property, for site-specific proposals;

(c) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(d) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(e) Notifying the news media;

(f) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(g) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas); (*and/or*

(h) *specify other*) _____.

(3) Whenever possible, the city/county shall integrate the public notice required under this section with existing notice procedures for the city's/county's nonexempt permit(s) or approval(s) required for the proposal.

(4) The city/county may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-130, filed 6/15/84. Formerly chapter 173-805 WAC.]

WAC 173-806-140 Designation of official to perform consulted agency responsibilities for the city/county. (1) The _____ (*position title, department, or office*) shall be responsible for preparation of written comments for the city/county in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(2) This (*person, department or office*) shall be responsible for the city's/county's compliance with WAC 197-11-550 whenever the city/county is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city/county.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-140, filed 6/15/84. Formerly WAC 173-805-110.]

**PART SIX
USING EXISTING ENVIRONMENTAL
DOCUMENTS**

WAC 173-806-150 Purpose of this part and adoption by reference. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the city's/county's own environmental compliance. The city/county adopts the following sections by reference:

WAC

- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement—Procedures.
- 197-11-625 Addenda—Procedures.
- 197-11-630 Adoption—Procedures.
- 197-11-635 Incorporation by reference—Procedures.
- 197-11-640 Combining documents.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-150, filed 6/15/84. Formerly WAC 173-805-020.]

**PART SEVEN
SEPA AND AGENCY DECISIONS**

WAC 173-806-155 Purpose of this part and adoption by reference. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The city/county adopts the following sections by reference:

WAC

- 197-11-650 Purpose of this part.
- 197-11-655 Implementation.
- 197-11-660 Substantive authority and mitigation.
- 197-11-680 Appeals.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-155, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-160 Substantive authority. (1) The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the city of _____ / _____ county.

(2) The (city/county) may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The city/county has considered whether other local, state, or federal mitigation measures applied to the

proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The (city/county) may deny a permit or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.

(4) The city/county designates and adopts by reference the following policies as the basis for the city's/county's exercise of authority pursuant to this section:

(a) The city/county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(b) The city/county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(c) (Optional.) The city/county adopts by reference the policies in the following city/county (codes, ordinances, resolutions, plans) _____: (List the codes, ordinances, resolutions, or plans you have selected, such as zoning ordinance, building codes or comprehensive plans.) _____.

(d) (Optional.) The city/county establishes the following additional policies: _____.

(5) (Note: Required by RCW 43.21C.060, unless the city/county council/commission elects to eliminate such appeals and states so in this ordinance.) Except for permits and variances issued pursuant to chapter _____ of

the city/county code (*chapter relating to shoreline management*), when any proposal or action not requiring a decision of the city/county council/commission is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city/county council/commission. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the city/county council/commission shall be on a de novo basis.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-160, filed 6/15/84. Formerly chapter 173-805 WAC.]

WAC 173-806-170 Appeals. (1) (*Agency administrative appeal is optional. If allowed, the statute requires that all of this subsection be included, except (c) of this subsection which is optional.*) _____ city/county establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(a) Any agency or person may appeal the city's/county's procedural compliance with chapter 197-11 WAC for issuance of the following: (*Note: Select one or more.*)

(i) A final DNS: (*Note: Choose one of the following options.*)

(*Option 1*) Appeal of the DNS must be made to _____ within _____ days of the date the DNS is final (see WAC 197-11-390 (2)(a)).

(*Option 2*) Appeal of the DNS must be made to _____ within _____ days of the date the DNS is final. Appeal of the substantive determination on the action must be made to _____ within _____ days of the issuance of the permit or other license.

(*Option 3*) Appeal of the (*city/county must specify DNS, substantive determination on action, or both. If both are allowed, they must be consolidated.*) must be made to _____ within _____ days of the date the permit or other approval is issued.

(ii) A DS: The appeal must be made to _____ within _____ days of the date the DS is issued.

(iii) An EIS: Appeal of the (*city/county must specify FEIS, substantive determination on the action, or both. If both are allowed, they must be consolidated.*) _____ must be made to _____ within _____ days of the date the permit or other approval is issued.

(b) For any appeal under this subsection, the city/county shall provide for a record that shall consist of the following:

- (i) Findings and conclusions;
- (ii) Testimony under oath; and
- (iii) A taped or written transcript.

(c) (*Optional.*) The city/county may require the appellant to provide an electronic transcript.

(d) The procedural determination by the city's/county's responsible official shall carry substantial weight in any appeal proceeding.

(2) The city/county shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a

time limit for commencing judicial appeal. (*The following is optional.*) The following permits or approvals require official notice: _____.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-170, filed 6/15/84. Formerly chapter 173-805 WAC.]

WAC 173-806-173 Notice/statute of limitations. (*Optional.*) (1) The city/county, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk or county auditor, applicant or proponent pursuant to RCW 43.21C.080.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-173, filed 6/15/84. Formerly WAC 173-805-135.]

PART EIGHT DEFINITIONS

WAC 173-806-175 Purpose of this part and adoption by reference. This part contains uniform usage and definitions of terms under SEPA. The city/county adopts the following sections by reference, as supplemented by WAC 173-806-040:

WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.
197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-748	Environmentally sensitive area.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.

- 197-11-768 Mitigation.
- 197-11-770 Natural environment.
- 197-11-772 NEPA.
- 197-11-774 Nonproject.
- 197-11-776 Phased review.
- 197-11-778 Preparation.
- 197-11-780 Private project.
- 197-11-782 Probable.
- 197-11-784 Proposal.
- 197-11-786 Reasonable alternative.
- 197-11-788 Responsible official.
- 197-11-790 SEPA.
- 197-11-792 Scope.
- 197-11-793 Scoping.
- 197-11-794 Significant.
- 197-11-796 State agency.
- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-175, filed 6/15/84. Formerly WAC 173-805-020.]

PART NINE CATEGORICAL EXEMPTIONS

WAC 173-806-180 Adoption by reference. The city/county adopts by reference the following rules for categorical exemptions, as supplemented in this ordinance, including WAC 173-806-070 (Flexible thresholds), WAC 173-806-080 (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):

WAC

- 197-11-800 Categorical exemptions.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-180, filed 6/15/84. Formerly WAC 173-805-020.]

PART TEN AGENCY COMPLIANCE

WAC 173-806-185 Purpose of this part and adoption by reference. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The city/county adopts the following sections by reference, as supplemented by WAC 173-806-045 through 173-806-043 and this part:

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.

[Title 173 WAC—p 700]

- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-185, filed 6/15/84. Formerly WAC 173-805-020.]

WAC 173-806-190 Environmentally sensitive areas. (*Optional. If used, all subsections must be included.*) (1) (*Use Option 1 or 2, but not both.*)

(*Option 1: If maps have been prepared.*) The map(s) filed under _____ designate the location of environmentally sensitive areas within the city/county and are adopted by reference. For each environmentally sensitive area, the exemptions within WAC 197-11-800 that are inapplicable for that area are: _____. Unidentified exemptions shall continue to apply within environmentally sensitive areas of the city/county.

(*Option 2: If environmentally sensitive areas have not been designated.*) _____ shall designate environmentally sensitive areas under the standards of WAC 197-11-908 and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with _____ and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.

(2) The city/county shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this ordinance, making a threshold determination for all such proposals. The city/county shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.

(3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-190, filed 6/15/84. Formerly WAC 173-805-050.]

WAC 173-806-200 Fees. (*This entire section is optional. You may use any or none of subsections (1), (2) or (4) of this section but you must use subsection (3) of*

this section if other subsections are used.) The city/county shall require the following fees for its activities in accordance with the provisions of this ordinance:

(1) Threshold determination. For every environmental checklist the city/county will review when it is lead agency, the city/county shall collect a fee of (\$50.00 or enter a different amount) _____ from the proponent of the proposal prior to undertaking the threshold determination. The time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee. (Note: The following option may be added: When the city/county completes the environmental checklist at the applicant's request or under WAC 173-806-090(3) of this ordinance, an additional \$ _____ shall be collected.)

(2) Environmental impact statement.

(a) When the city/county is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS shall be prepared by employees of the city/county, the city/county may charge and collect a reasonable fee from any applicant to cover costs incurred by the city/county in preparing the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

(b) The responsible official may determine that the city/county will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city/county and may bill such costs and expenses directly to the applicant. The city/county may require the applicant to post bond or otherwise ensure payment of such costs. Such consultants shall be selected by mutual agreement of the city/county and applicant after a call for proposals.

(c) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) or (b) of this subsection which remain after incurred costs are paid.

(3) The city/county may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(4) The city/county shall not collect a fee for performing its duties as a consulted agency.

(5) The city/county may charge any person for copies of any document prepared under this ordinance, and for mailing the document, in a manner provided by chapter 42.17 RCW.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-200, filed 6/15/84. Formerly WAC 173-805-130.]

WAC 173-806-205 Effective date. (Optional.) The effective date of this ordinance is _____.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-205, filed 6/15/84. Formerly chapter 173-805 WAC.]

(1989 Ed.)

WAC 173-806-220 Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-220, filed 6/15/84. Formerly WAC 173-805-140.]

PART ELEVEN FORMS

WAC 173-806-230 Adoption by reference. The city/county adopts the following forms and sections by reference:

WAC

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

[Statutory Authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), § 173-806-230, filed 6/15/84. Formerly WAC 173-805-020.]