

WAC 173-205-030 Applicability. The requirements in this chapter shall apply to all NPDES permits issued by the department of ecology (department).

(1) The department shall evaluate all NPDES permit applications in accordance with WAC 173-205-040 to determine if the discharge needs an effluent characterization for toxicity as described in WAC 173-205-050.

(2) In accordance with WAC 173-205-050 and 173-205-130, the department shall describe in the permit the circumstances under which whole effluent toxicity limits will be applied to the discharge in order to meet:

(a) The requirement for all known, available, and reasonable methods of prevention, control, and treatment of toxicants; or

(b) Appropriate water quality standards.

(3) The determination to require or not to require whole effluent toxicity characterization in a permit shall be explained in the fact sheet of the permit prepared pursuant to WAC 173-220-060.

(4) The department may delay effluent characterization for whole effluent toxicity for existing facilities that are under a compliance schedule in a permit, administrative order, or other legally enforceable mechanism to implement technology-based controls or to achieve compliance with water quality-based effluent limits.

(5) The department may require whole effluent toxicity testing or rapid screening testing as a condition of permit application, as a condition of an NPDES permit, or as a regulatory order.

(a) If an effluent characterization for whole effluent toxicity as described in WAC 173-205-050(1) has been conducted as a condition of permit application, then the permit issued in response to that application shall not contain a requirement for effluent characterization provided that all determinations required by this chapter can be made to the department's satisfaction.

(b) If an effluent characterization for whole effluent toxicity which meets the requirements of WAC 173-205-050(1) has been conducted in a previous permit, permit application, or administrative order, then subsequent permits shall not contain a requirement for effluent characterization provided that all determinations required by this chapter can be made to the department's satisfaction and unless WAC 173-205-060 applies.

(6) The department may conduct or require permittees to conduct toxicity tests on ambient water or may use or require permittees to use ambient water as dilution water in order to facilitate the determination of compliance with WAC 173-201A-100.

(7) A toxicity test conducted on effluent samples taken by parties other than the permittee can be used to make any determination required by this chapter or in a permit issued in accordance with this chapter as long as all appropriate sampling, toxicity testing, and QA/QC requirements specified in the permit have been followed.

(8) The department shall require permittees that have not been assigned a whole effluent toxicity limit because of the determination in WAC 173-205-050 (2)(a), or 173-205-120(1) to conduct as a part of the application for permit renewal at least one toxicity test on a fish, an invertebrate, and any appropriate plant unless the permittee has been monitoring with rapid screening tests required in accordance with WAC 173-205-120(2).

(9) Permittees may conduct any toxicity test using a full dilution series provided that all of the testing and information require-

ments of this chapter and the permit are met, including using the statistical analysis specified in the permit.

[Statutory Authority: Chapter 90.48 RCW and 40 C.F.R. 122.44. WSR 93-20-110 (Order 91-54), § 173-205-030, filed 10/6/93, effective 11/6/93.]