

WAC 173-308-310 Permitting. (1) **Applicable facilities—Application required.** All treatment works treating domestic sewage are applicable facilities, and must apply for a permit for the final use or disposal of biosolids or sewage sludge except for certain composting toilet systems described in WAC 173-308-193 and certain composting facilities described in (a) of this subsection.

(a) **Permitting exemption for some composting facilities.** Facilities that compost biosolids or sewage sludge do not require permitting under this chapter if all of the following conditions are met:

(i) A permit is not otherwise required in order to comply with the Federal Clean Water Act.

(ii) The department and local health jurisdiction agree that a permit issued by the local health jurisdiction will be adequate.

(iii) The conditions of the permit issued by the local health jurisdiction meet or exceed the requirements of this chapter.

(iv) The department does not otherwise find that a state-issued permit is necessary because one or more of the conditions in (b) (i) through (iv) of this subsection exists.

(b) **Designation as a treatment works treating domestic sewage.** In addition to facilities meeting the definition of a treatment works treating domestic sewage in WAC 173-308-080, the department may designate any person, site, or facility that treats, uses, transports, stores, or applies biosolids, as a treatment works treating domestic sewage, and require the owner or operator to apply for a permit if any of the following conditions are met:

(i) The department determines that a permit is necessary to protect human health or the environment from the adverse effect of a pollutant in the biosolids.

(ii) The department determines that a permit is necessary to protect human health or the environment from poor biosolids management practices.

(iii) The department determines that a permit is necessary to ensure compliance with any of the requirements in this chapter.

(iv) Bulk biosolids or sewage sludge originating from a source or location outside the jurisdiction of the state of Washington are being applied to the land or received at any site or facility.

(c) It is a violation of this chapter for a facility to fail to submit a permit application to the department as required by these rules.

(2) **General and individual permits.** The department will issue permits for the treatment and final use or disposal of biosolids or sewage sludge.

(a) The department will issue, modify, revoke and reissue, and terminate general permits in accordance with the provisions of Appendix 5.

(b) The department will accept and consider applications for coverage under a general permit, modify conditions of coverage, revoke and reissue coverage, or terminate coverage under a general permit in accordance with the provisions of this section.

(c) The department will issue, modify, revoke and reissue, or terminate individual permits in accordance with the provisions of this section.

(3) **Requirements to apply for coverage under a general permit or to request an individual permit.**

(a) After the department has issued a general permit for the final use or disposal of biosolids or sewage sludge, all applicable fa-

cilities must apply for coverage under the general permit in accordance with subsection (4) of this section unless any of the following apply:

(i) The facility has a current individual permit issued under this chapter.

(ii) The department requires a facility to apply for an individual permit.

(iii) On written request of the applicant, the department has granted permission to apply for an individual permit.

(A) A facility may request an individual permit if a practice it proposes is not addressed in a general permit issued by the department.

(B) A facility may seek coverage under a general permit for any portion of its biosolids or sewage sludge management practices that are applicable under the general permit and may also request an individual permit for any portion of its biosolids or sewage sludge management practices that are not applicable under the general permit.

(iv) The department may require any facility applying for an individual permit under (a)(iii) of this subsection to limit its practices for the final use or disposal of biosolids or sewage sludge to those that are authorized in a general permit and to apply for coverage under a general permit.

(b) The department may notify a facility that it is covered by a general permit, even if the facility has not submitted a permit application as required under subsection (4) of this section.

(i) A facility so notified may request an individual permit in accordance with the provisions of (a)(iii) of this subsection.

(ii) Facilities that are notified of coverage under this subsection must submit a permit application as directed by the department.

(4) Timing of permit applications.

(a) **Existing facilities seeking coverage under a general permit.** Existing facilities seeking coverage under a general permit must submit an application for coverage within ninety days after issuance of the applicable general permit by the department. However, on a case-by-case basis the department's regional biosolids coordinator may grant an extension up to a maximum of one hundred eighty days after issuance of the applicable general permit. Requests for an extension must be made in accordance with the following:

(i) Requests must be made in writing to the applicable regional biosolids coordinator.

(ii) Requests must be made within ninety days after issuance of the applicable general permit.

(b) **Existing facilities requesting an individual permit.** Existing facilities that wish to request an individual permit under subsection (3)(a)(iii) of this section must do so within thirty days of issuance of an applicable general permit by the department.

(c) **Facilities required or approved to apply for an individual permit.** Facilities that have been directed by the department to apply for an individual permit under subsection (3)(a)(ii) of this section or approved to apply for an individual permit requested under subsection (3)(a)(iii) of this section must submit a permit application within ninety days of receiving notification.

(d) **Facilities that have been denied an individual permit.** Facilities that are denied an individual permit must submit an application for coverage under a general permit within sixty days after being denied an individual permit.

(e) **New facilities.** New facilities being proposed after July 1, 2007, must submit an application for coverage under an applicable general permit or a request for an individual permit at least one hundred eighty days prior to engaging in applicable management activities.

(5) **Timing of notices of intent - continuing coverage.**

(a) All facilities permitted under this section must submit a notice of intent to continue coverage under a general permit or an application for a new individual permit, at least one hundred eighty days prior to the expiration date of their applicable permit.

(b) When a facility has submitted a timely and sufficient notice of intent or application as required in this subsection, an expiring permit remains in effect and enforceable until any of the following occur:

(i) The application has been denied.

(ii) A replacement permit has been issued by the department.

(iii) The department has cancelled the expired permit.

(c) Coverage under a permit for permittees who fail to submit a timely and sufficient application or notice of intent shall cease on the expiration date of the permit.

(6) **Permit application contents.** All facilities must submit a complete and factually correct permit application in accordance with the schedule established in WAC 173-308-310(4) on a form or in a format specified by the department. The content requirements are listed in Appendix 1.

(7) **Notices of intent contents.** Facilities submitting a notice of intent to be covered under an applicable general permit must do so on a form provided by the department. The content requirements are listed in Appendix 2.

(8) **Land application plans.**

(a) **Exemptions for exceptional quality biosolids.** Land application plans are not required when exceptional quality biosolids are applied to the land, except as specified in this subsection.

(i) Any person who prepares exceptional quality biosolids for application to the land must determine and assure to the extent practicable, through recordkeeping and other means, that all applicable criteria of this chapter and any applicable permit are met when bulk exceptional quality biosolids are applied to the land.

(ii) Any person who prepares exceptional quality biosolids for application to the land and who fails to satisfy the requirements in (a)(i) of this subsection, may be required to submit a general or site specific land application plan, or both, for any or all sites where bulk exceptional quality biosolids are applied to the land, and may also be required to comply with the public notice requirements in subsection (13) of this section.

(iii) The department may require a site specific land application plan for any site where bulk exceptional quality biosolids are proposed to be applied if the plan is necessary to evaluate potential permit conditions or if the department finds there would be a strong benefit to the public from the preparation of a site specific land application plan.

(iv) The department may require advance notice prior to the application of bulk exceptional quality biosolids to the land. In such case the department will notify the facility in writing of the conditions requiring advance notice, the length of advance notice required, and the length of time the requirement for advance notice will remain in effect.

(b) **Nonexceptional quality biosolids.** Land application plans are required when nonexceptional quality biosolids are applied to the land except when biosolids are delivered to a beneficial use facility as provided in (g) of this subsection. Facilities that propose to apply nonexceptional quality biosolids to the land must do one or both of the following:

(i) Submit with their permit application a site specific land application plan for each site where biosolids will be applied during the life of the permit.

(ii) Submit with their permit application a general land application plan, and at a later date prior to applying biosolids, a site specific land application plan for each site where biosolids will be applied to the land.

(c) Any site specific land application plans must be consistent with a facility's general land application plan, if a general land application plan has been submitted.

(d) **Site specific land application plan contents.** Each site specific land application plan must provide information necessary to determine if the site is appropriate for land application of biosolids, and a description of how the site will be managed. The minimum content for site specific land application plans is listed in Appendix 3.

(e) **General land application plan contents.** Applicants intending to apply nonexceptional quality biosolids to sites for which a site specific land application plan is not submitted as a part of the permit application, must submit for approval as a part of their permit application a general land application plan. The minimum content for general land application plans is listed in Appendix 4.

(f) As individual sites are identified in accordance with the general land application plan in (e) of this subsection, facilities that seek to apply nonexceptional quality biosolids must develop and submit site specific land application plans in accordance with (d) of this subsection.

(g) **Exemptions when sending biosolids to a permitted beneficial use facility.** When biosolids are provided to a beneficial use facility that has been permitted as a treatment works treating domestic sewage, the person who prepares the biosolids is not required to prepare land application plans for the biosolids that will be applied to the beneficial use facility if all of the following conditions are met:

(i) The beneficial use facility's permit allows it to accept biosolids from the person who prepares biosolids.

(ii) As a part of the permit application or public notice, the person who prepares the biosolids identifies the beneficial use facility(ies) to which biosolids may be provided or specifies the criteria by which beneficial use facilities may be selected at a future date or states or indicates that it maintains the option to send its biosolids or sewage sludge to any facility permitted by the department to accept it for management.

(h) All land application plans, including those authorized under provisional approval in accordance with subsection (18)(a) of this section, are subject to review and final approval by the department. If a land application plan is found to be insufficient, the department may either request additional information or may impose additional requirements as a condition of approval in accordance with subsection (19) of this section.

(9) **Submitting permit applications and notices of intent.** Facilities must submit their permit application and notice of intent as follows:

(a) The original, in hardcopy form, to the biosolids coordinator in the regional office of the department where the facility is located.

(b) One copy, in either electronic or hardcopy form, to any other regional office of the department where the facility's biosolids or sewage sludge will be treated, stored, disposed, or applied to the land. The department encourages submittal in electronic form.

(c) One copy, in either electronic or hardcopy form, to the biosolids coordinator at the department's headquarters office. The department encourages submittal in electronic form.

(d) One copy, in either electronic or hardcopy form, to the local health jurisdiction in each county where biosolids or sewage sludge will be treated, stored, disposed, or applied to the land. The department encourages submittal in electronic form.

Local health jurisdictions that elect not to receive copies of notices of intent or permit applications may notify in writing the facility or the department that they do not wish to receive copies.

(10) **Signatories to permit applications and reports.**

(a) **Applications.** All permit applications must be signed as follows:

(i) *For a corporation.* By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means either of the following:

(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-making or decision-making functions for the corporation.

(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.

(iii) *For a municipality, state, federal, or other public agency.* By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes either of the following:

(A) The chief executive officer of the agency.

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) **Reports and other information.** All reports and other information required by permits, and other information requested by the department must 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 the following conditions are met:

(i) The authorization is submitted to the department in writing by a person described in (a) of this subsection.

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

(c) **Changes to authorization.** If an authorization under (b) of this subsection is no longer accurate, a new authorization satisfying

the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports or other information.

(d) **Certification.** Any person signing a document under (a) or (b) of this subsection must make the following certification, unless a different certification is applicable under another related section of this chapter:

"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."

(11) **Public access to information.** In accordance with chapter 42.17 RCW, the department must provide, upon request, any information submitted as part of a permit application, except as provided in (a) of this subsection.

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

(b) Any information accorded confidential status, whether or not contained in any application form, must be disclosed, upon request, to the Regional Administrator of EPA.

(12) **Recordkeeping required for permit applications.** Applicants must keep records of all information used to complete permit applications and any supplemental information submitted for a period of five years, or longer, if otherwise required by this chapter, the conditions of the applicable permit, or other state or local laws.

(13) **Public notice and comment period.** Public notices and comment periods must minimally meet the requirements listed in this subsection.

(a) **Applying for coverage under a general permit initially, proposing a significant change, or reapplying following revocation.** All facilities applying for coverage under a general permit initially, facilities who propose a significant change in biosolids management practices, and those who reapply for a permit following revocation of their permit must issue public notice in the following manner:

(i) Issue one notice in a newspaper of general circulation in any county(ies) where you prepare biosolids or sewage sludge.

(ii) Issue one notice in a newspaper of general circulation in any county(ies) covered by a general land application you have submitted.

(iii) Issue one notice in a newspaper of general circulation in any county(ies) where you land apply nonexceptional quality biosolids except where this notice has been conducted by a permitted biosolids beneficial use facility.

(iv) Post notices at any site(s) where you plan to land apply nonexceptional quality biosolids except where this notice has been conducted by a permitted biosolids beneficial use facility. The site(s) must remain posted during the entire public comment period required in (a)(v) of this subsection.

(v) Provide a thirty-day public comment period following the issuance of newspaper notice and the posting of site(s).

(b) **Applying for renewal of coverage under a general permit with no land application of nonexceptional quality biosolids.** All facilities applying for renewal of coverage under a general permit who have previously met the public notice requirements of (a) of this subsection and who do not land apply nonexceptional quality biosolids are not required to conduct additional public notice.

(c) **Applying for renewal of coverage under a general permit with land application of nonexceptional quality biosolids.** All facilities applying for renewal of coverage under a general permit who have previously met the public notice requirements of (a) of this subsection and who land apply nonexceptional quality biosolids must conduct public notice in accordance with (a)(iii) and (v) of this subsection.

(d) **Applying for an individual permit.** Facilities applying for individual permits must conduct public notice in accordance with (a)(i) through (v) of this subsection at the time they apply for a permit and at the time when a draft permit is provided for formal review by the department.

(e) **Notice when adding a new site in accordance with a general land application plan.** All facilities who are proposing to add a new site or expand an existing site for the land application of nonexceptional quality biosolids in accordance with an approved general land application plan and who previously met the public notice requirements of (a) of this subsection must conduct public notice at the proposed new site or expanded area of an existing site in accordance with (a)(iv) and (v) of this subsection.

(f) All facilities not captured under one of the descriptions in (a) through (e) of this subsection must conduct public notice as directed by the department.

(g) **Notice contents.** All notices issued in accordance with this subsection must contain at least the following:

(i) The name and address of the facility and the name of the contact person for the facility.

(ii) The name and address of the department of ecology person responsible for the permit.

(iii) The name and address of the local health jurisdiction person responsible for the permit if the local health jurisdiction has been delegated this responsibility.

(iv) A description of the proposal.

(A) Proposals for coverage under a general permit must cite the name of the general permit.

(B) Proposals for land application plans must contain information on the location of the proposed land application sites and, if applicable, the source(s) of biosolids that may be applied.

(C) Proposals for general land application plans must provide information on how the public will be notified when specific sites are identified.

(v) A brief statement describing the applicant's biosolids or sewage sludge management practices.

(vi) A statement describing an interested person's opportunity to comment or request a public hearing or meeting on the proposal, including the last date for comments or requests and the contact person to whom comments or requests must be directed.

(A) The period for comments and requests must be at least thirty days following the posting.

(B) Comments and requests should be directed to the responsible department of ecology contact or the responsible local health jurisdiction contact if the authority is delegated.

(C) The following is an example: "Any person wishing to comment on this proposal or wishing to request a public hearing or meeting must do so in writing within thirty days of this notice. Comments should be addressed to (insert either 'the department of ecology contact listed' or 'the local health jurisdiction contact listed')."

(vii) The statement, "If you wish to be included on an interested parties list to receive notification of activities relating to this project, please notify, in writing, the (insert facility name) contact listed. (Insert facility name) will provide written confirmation by certified mail, return receipt requested, to each interested person or organization that their name has been placed on the list."

(viii) Any additional information considered necessary or proper.

(h) **Notice to interested parties.** Notices must be sent to all persons on a facility's interested parties list at the same time or before notice is run in a newspaper or posted at a land application site.

(i) **Notices at land application sites.** Notices at land application sites must be posted at all significant site access points and at least every 1/2 mile (805 meters) around the perimeter of the site.

(j) Following the completion of public notice and comment period requirements, the facility must provide written documentation to the department certifying completion of the process in accordance with the following:

(i) When newspaper notice has been conducted, either an *Affidavit of Publication* must be submitted or a copy of the newspaper notice that shows the date of publication must be submitted.

(ii) When site posting has been conducted, a copy of the final notice posted and a brief description describing how site posting and notification was conducted.

(k) Notice must be given by any other method required by the department.

(14) **Public hearings and meetings.**

(a) The department may require an applicant to hold a public hearing or meeting when applying for a permit or for any land application plan if it finds, on the basis of requests, a significant degree of public interest or if it determines that a public discussion might clarify one or more aspects important to compliance with the requirements of this chapter or an applicable permit.

(b) During the public comment period provided for in subsection (13) of this section, any person may request the department to require a public hearing or meeting if none has been scheduled. Any request for a public hearing or meeting must be in writing and must state the nature of the issues proposed to be raised. The department will consider all requests that are received not later than the final comment date specified in the notice required under subsection (13) of this section.

(c) **Notice of a hearing.** If the department determines that a public hearing must be held, the applicant must give notice of a public hearing in accordance with the procedures in subsection (13) of this section, except that posting of sites that are not specifically subject to the hearing is not required.

(i) The notice of hearing must contain the following information:

(A) The dates of previous public notices relating to the permit application.

(B) The date, time, and place of the hearing.

(C) A brief description of the nature and purpose of the hearing, including any rules and procedures that apply.

(ii) Copies of the notice and an explanation of all places where and when the notice was published must be submitted to:

(A) The contact person in the regional or headquarters office of the department that has lead responsibility for the permit.

(B) Any applicable local health jurisdiction that has accepted delegation of authority for conducting public hearings.

(d) Public hearings required under this subsection, must be held in each county where biosolids will be treated or applied to the land, unless otherwise allowed by the department.

(e) Public hearings required under this subsection must be held no sooner than thirty days after the publication of the notice required in (c) of this subsection and at a time and place as can be reasonably expected to be convenient to the department and interested parties.

(f) Public hearings must be attended by a representative of the permit applicant who is authorized to respond to questions from the public and the department and by a representative of the department.

(g) **Notice of a meeting.** Requirements for notice conducted for public meetings are the same as that required for public hearings unless otherwise allowed by the department.

(15) Record and response to comments received on an application or during a public hearing or meeting.

(a) The department will maintain a record of all written comments received during the public comment period in subsection (13) of this section, and of all comments properly submitted in response to a public hearing required under subsection (14) of this section.

(b) The department will prepare a response to all relevant comments received, and will briefly describe any changes that resulted (other than editorial changes) to a permit.

(c) The department is not obligated to consider or respond to comments or information that is received later than thirty days after the date of publication of public notice, or the date of a public hearing, whichever is later.

(16) Compliance schedules.

(a) A permit may specify a schedule leading to compliance with the federal Clean Water Act and these regulations. Any compliance schedule under this subsection must require compliance as soon as possible, but not later than any applicable statutory deadline under the Clean Water Act or chapter 70.95J RCW.

(b) **Interim dates.** If a permit establishes a compliance schedule that exceeds one year from the date of permit issuance, the schedule must set forth interim requirements and the date for their achievement. The time between interim dates must not exceed six months.

(c) **Reporting.** The permit must require that no later than fourteen days after each interim date and the final date of compliance, the permittee must notify the department in writing of its compliance or noncompliance with the interim or final requirements.

(17) Fact sheet required for individual permits.

(a) The department must prepare a fact sheet for every draft individual permit for a class I biosolids management facility, for every draft individual permit requiring permit conditions developed on a case-by-case basis to implement section 405 (d)(4) of the Clean Water Act, for every draft individual permit that includes a general land application plan, and for every draft individual permit that the di-

rector finds is the subject of widespread public interest or raises major issues.

(i) The fact sheet must briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit.

(ii) The director must send this fact sheet to the applicant and, on request, to any other person.

(b) **Fact sheet contents.** The fact sheet must include all of the following:

(i) A brief description of the type of facility or activity that is the subject of the draft permit.

(ii) Any calculations or other necessary explanation of the derivation of conditions for biosolids use and sewage sludge disposal, including a citation to the applicable standards for biosolids use or sewage sludge disposal and reasons why they are applicable, or in the case of conditions developed on a case-by-case basis to implement section 405 (d)(4) of the Clean Water Act, an explanation of, and the bases for the conditions.

(iii) For permits that include a general land application plan, a brief description of how each of the required elements of the land application plan is addressed in the permit.

(18) **Approval of coverage - provisional approval and final coverage.**

(a) **Provisional approval.** Except for new beneficial use facilities as described in (a)(ii) of this subsection, facilities that are in compliance with this chapter, an applicable permit, and any plans submitted as part of a request to obtain a permit are provisionally approved to engage in the biosolids management activities proposed in their applications.

(i) Facilities with provisional approval are subject to further review and permitting requirements at a later date, and are subject at all times to all applicable conditions of this chapter, an applicable permit, and any plans submitted as part of a request to obtain a permit.

(ii) New beneficial use facilities may not obtain provisional approval.

(b) **Final coverage.** After reviewing a permit application and considering other pertinent information including any testimony received during a public hearing or meeting or written comments submitted in response to a public notice, the department may approve coverage under a general permit or issue an individual permit.

If final approval is issued, the department will notify the applicant in writing of its decision including any additional requirements or stipulations that are imposed as a condition of approval in accordance with subsection (19) of this section.

(c) **Disapproval.** If an application for a permit is disapproved, the department will notify the applicant in writing, including an explanation of why the application was disapproved.

(d) In no case may a lack of action by the department be construed as relieving an applicant of the obligation to comply with any of the provisions of this chapter or an applicable permit, or as approving final use or disposal practices that are not consistent with the provisions of this chapter or an applicable permit, or that pose a threat to human health or the environment.

(19) **Additional or more stringent requirements.**

(a) On a case-by-case basis, the department may impose requirements for the beneficial use of biosolids that are in addition to or

more stringent than the requirements in this chapter if the department believes that the additional or more stringent requirements are necessary to protect public health or the environment from any adverse effect of a pollutant in the biosolids or to ensure compliance with this chapter.

(b) In addition to other considerations, failure of a generator, applier, or landowner to conform to any applicable requirements of this chapter may be cause to impose additional or more stringent requirements.

(c) The department will impose any additional or more stringent requirements in an individual permit issued to a facility, in general permits issued in accordance with Appendix 5 of this chapter, and in the issuance of final coverage under a general permit.

(d) Any additional or more stringent requirements imposed in accordance with this section are considered to be permit requirements, fully enforceable in accordance with the provisions of this chapter and the applicable permit.

(e) If known, any additional requirements must be disclosed at a public hearing if a public hearing is held, or if imposed subsequent to a public hearing, must become a part of the written record required under subsection (15)(b) of this section.

(20) **Prohibition.** The department may not issue a permit when the Regional Administrator of EPA has objected in writing under 40 C.F.R. 123.44.

(21) **Duration of permits.**

(a) Permits are issued for fixed terms up to, but not exceeding, five years from the effective date of the permit. Final coverage under a general permit may be issued for a period up to the remaining term of issuance for the permit.

(b) The term of a permit may not be extended by modification beyond five years.

(22) **Transfer of permit coverage.**

(a) Except as provided in (b) of this subsection, a permit may be transferred by the permittee to a new owner operator only if the permit has been modified or revoked and reissued to identify the new permittee and incorporate other requirements as may be necessary to assure compliance with the requirements of this chapter.

(b) **Automatic transfer.** Coverage under a permit is automatically transferred from the old permittee to a new permittee on the date agreed to if all of the following conditions are met:

(i) A written, signed agreement between the old and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability is submitted in accordance with (b)(i)(A) through (D) of this subsection at least thirty days in advance of the proposed date of transfer.

(A) The original to the biosolids coordinator in the regional office of the department where the facility is located.

(B) One copy to any other regional office of the department where the facility's biosolids or sewage sludge will be treated, stored, disposed, or applied to the land.

(C) One copy to the biosolids coordinator at the department's headquarters office.

(D) One copy to the local health jurisdiction in each county where biosolids or sewage sludge will be treated, stored, disposed, or applied to the land.

(ii) The department has not notified both permittees of any objection to the transfer, or of the intent to revoke the permit.

(c) No condition or requirement of a permit or this chapter may be waived by the transfer of permit coverage from one party to another.

(23) Modification or revocation and reissuance of permits.

(a) When the department receives any information (for example, upon inspection of a facility, receipt of information submitted by the permittee as required in the permit, receipt of a request for modification or revocation and reissuance, or upon a review of the permit file), the department may determine whether or not one or more of the causes listed in (b) or (c) of this subsection for modification or revocation and reissuance, or both, exist.

(i) If cause for modification or revocation and reissuance, or both, exists, the department may modify or revoke and reissue a permit and may request an updated application if necessary.

(ii) When a permit is modified, only the conditions subject to modification are reopened.

(iii) If a permit is revoked and reissued, the entire permit is reopened and subject to revision, and the permit may be reissued for a new term.

(iv) If cause does not exist under this section, the department may not modify or revoke and reissue a permit.

(b) **Causes for modification.** The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

(i) *Alterations.* There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance that justify the application of permit conditions that are different from or absent in the existing permit.

(ii) *Information.* The department has received new information. A permit may be modified during its term for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(iii) *New regulations.* New regulations have been adopted or the standards or regulations on which the permit was based have been changed by adoption of amended standards or regulations or by judicial decision after the permit was issued.

(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 reasonable available remedy. However, in no case may a compliance schedule be modified to extend beyond an applicable Clean Water Act statutory deadline.

(v) *Land application plans.* When required by a permit condition to incorporate a general land application plan for beneficial use of biosolids, to revise a general land application plan, or to add a general land application plan.

(c) **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 subsection (24) of this section and the department determines that modification or revocation and reissuance is appropriate.

(ii) The department has received notification of a proposed transfer of the permit.

(d) **Public notice requirements.** When a permit is modified or revoked and reissued, the public notice requirements of subsection (13) of this section, and if required the public hearing requirements of subsection (14) of this section must be complied with for the reopened conditions or reissued permit.

(24) **Causes for termination of permits, denying permit applications, or denying expansion of an existing permit.** The following are causes for terminating a permit during its term, or for denying a permit application, or for denying an expansion of an existing permit:

(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 human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(d) A change in any condition that requires either a temporary or a permanent reduction or elimination of any activity controlled by the permit.

(e) Failure by the permittee to pay a permit fee issued in accordance with WAC 173-308-320.

(25) **Requirement to coordinate permitting with delegated local health jurisdictions.** When a local health jurisdiction has received delegation to administer any portion of, or to carry out any activity required under this chapter, all facilities subject to permitting under this chapter must cooperate with the department and the local health jurisdiction by coordinating permitting activities so as to assure an opportunity for local health jurisdiction involvement consistent with the terms of the delegation agreement.

[Statutory Authority: Chapters 70.95J and 70.95 RCW. WSR 07-12-010 (Order 06-06), § 173-308-310, filed 5/24/07, effective 6/24/07. Statutory Authority: RCW 70.95J.020 and 70.95.255. WSR 98-05-101 (Order 97-30), § 173-308-310, filed 2/18/98, effective 3/21/98.]