



DEPARTMENT OF
ECOLOGY
State of Washington

Preliminary Cost-Benefit and Least Burdensome Alternative Analyses

*Chapter 173-400 WAC
General Regulation for Air Pollution Sources*

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Preliminary Cost Benefit and Least Burdensome Alternative Analysis

Chapter 173-400 WAC General Regulation for Air Pollution Sources

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Table of Contents

Table of Contents	i
Executive Summary	1
Cost-benefit analysis	1
Least Burdensome Analysis.....	1
I. Conclusion	2
II. Purpose of analysis	2
III. Background.....	2
History of existing rule	2
<i>Washington Clean Air Act Chapter 70.94 RCW</i>	2
Reason for this rule proposal	2
IV. Scope of Analysis	3
Federal (EPA) and state mandates	3
Housekeeping.....	4
V. Comparison of the Current and Proposed Rules.....	4
VI. Baseline for Analysis	5
VII. Analysis of Costs & Benefits	5
Costs.....	5
Benefits	5
Net Benefits	5
VIII. Least Burdensome Analysis.....	5
Conclusion	6
Alternatives Considered.....	6
<i>Alternative 1: Do nothing</i>	6
<i>Alternative 2: Make only those updates required to meet EPA requirements</i>	6
<i>Alternative 3: The amended rule as proposed</i>	7
Appendix A: Rationale for Rule Amendments	8

Executive Summary

The Federal Clean Air Act requires that Washington State develop a plan to meet and maintain the National Ambient Air Quality Standard (NAAQS) in all areas of the state. The Act also requires the state to have a specific plan for how we will meet the standards in each area that is designated a nonattainment area. These plans, known as State Implementation Plans or SIPs, are developed by state and local air quality management agencies and submitted to EPA for approval.

The Department of Ecology's (Ecology) proposed amendments to the General Regulation for Air Pollution Sources (Chapter 173-400 WAC) offer a net benefit to the social and business welfare of the state. Many of the proposed amendments are exempt from analysis because they are considered "housekeeping" amendments, are mandated by law, or are required by the EPA to get approval of a SIP.

Ecology is proposing to amend Chapter 173-400 WAC to assure that it is consistent with federal requirements so that Washington can get EPA approval for the SIPs in the new source review (NSR) and prevention of significant deterioration (PSD) permitting programs.

Cost-benefit analysis

The proposed rule doesn't impose additional costs, instead these changes are expected to relieve some of the regulatory burden on those required to comply with the rule.

The primary benefit of the proposed rule is that it will be easier for emitters to understand:

- The regulatory framework they are subject to
- The permitting requirements they must follow

The amended rule will also provide better access to current and accurate references to help emitters comply with the rule. Additionally, Ecology expects the proposed "housekeeping" changes to increase readability and implementation consistency.

While it is not possible to quantify these benefits to any degree of certainty, they are greater than zero.

The proposed amendments create benefits and do not create costs. Therefore, the net benefits of the proposed rule are greater than zero.

Least Burdensome Analysis

Based on research and analysis required by RCW 34.05.328(1)(e) the Department of Ecology determines:

There is sufficient evidence that the proposed rule is the least burdensome version of the rule for those who are required to comply, given the goals and objectives of the law for Ecology to propose the rule.

I. Conclusion

Ecology determines that the benefits of the proposed rule are greater than the costs and that we are proposing the least burdensome alternative of the rule.

II. Purpose of analysis

Ecology is proposing to amend the General Regulation for Air Pollution Sources (Chapter 173-400 WAC). The Administrative Procedures Act (RCW 34.05.328(d)(e)) requires two types of analyses before adopting a significant legislative rule – a cost-benefit analysis and a least burdensome alternative analysis. This report provides the results of these analyses and shows the potential impacts associated with the proposed rule.

III. Background

History of existing rule

Washington Clean Air Act Chapter 70.94 RCW

Washington's Clean Air Act was first enacted by the state legislature in 1957. The Act has been periodically amended since that time. The most significant amendments occurred in 1965, 1971, and 1991.

The Act directs Ecology to implement the programs and requirements in the state Clean Air Act (CAA) by adopting rules. These rules apply statewide, except where a local air pollution control authority has implemented its own rules that are at least as stringent as Ecology's rules. It is the intent of the Act that the implementation of programs and rules to control air pollution shall be the primary responsibility of the local air pollution control authorities and Ecology.

Reason for this rule proposal

The Federal Clean Air Act requires that Washington State develop a plan to meet and maintain the National Ambient Air Quality Standard (NAAQS) in all areas of the state and a specific plan to meet the standards for each area designated nonattainment for a NAAQS. These plans, known as State Implementation Plans or SIPs, are developed by state and local air quality management agencies and submitted to EPA for approval.

Ecology is proposing to amend the General Regulation for Air Pollution Sources (Chapter 173-400 WAC) to assure it is consistent with federal requirements so Washington can get EPA approval for the SIPs in the new source review (NSR) and prevention of significant deterioration (PSD) permitting programs.

The current state NSR rule was last approved into the SIP in 1994 based on the rule in place in 1992. Our new source review program has changed significantly since the 1992 state rule. The difference in requirements leads to the potential for double jeopardy for an air pollution source being in violation of requirements of the SIP while complying with the state regulation's requirements.

The sections of Chapter 173-400 WAC that are integral for SIP approval of the state's minor NSR and the PSD program have been amended to support our future SIP proposal. Gaining SIP approval of the minor NSR and PSD programs helps ensure that the state is aligned and consistent with federal law while meeting and maintaining good air quality and protecting citizen's health.

Washington currently operates a delegated PSD program. This results in continuing conflicts as EPA makes changes to its PSD rule. Having SIP approval of our program would reduce the rate of the conflicts with EPA by giving the state up to three years for our PSD program rule to be revised and submitted for re-approval.

This proposed rule amendment is essential to maintain state control of the approval and delegation of federal programs. If we fail to address the SIP deficiencies, EPA could elect to pull approval of our delegated federal programs that implement the federal clean air act.

Washington is obligated to submit infrastructure SIPs for several NAAQS to obtain SIP-approval of the rules and programs that implement the new NAAQS. For example, these proposed revisions will support the 2006 PM2.5 NAAQS infrastructure SIP. The proposed revision to the air contaminant definition clarifies the regulatory applicability of those pollutants for which NAAQS have been established as well as the precursors to those NAAQS pollutants. The proposed revisions ensure that these regulations support attainment and maintenance of the NAAQS in Washington.

Gaining SIP approval of the relevant parts of Chapter 173-400 WAC supports submittal of these plans as needed to avoid EPA implementation of a federal implementation plan.

IV. Scope of Analysis

The majority of the changes to WAC 173-400 fall into one of three revision categories:

1. Federal (EPA) and state mandates.
2. Housekeeping.
3. Clarification of which pollutants are federally enforceable.

Federal (EPA) and state mandates

The Administrative Procedures Act (RCW 34.05.328) exempts, from this analysis, any rule change necessary to meet state and federal mandates. Examples of this type of change include the proposed revisions in WAC 173-400-171, Public notice. The section has been revised to make it "media neutral" in compliance with revisions at the state level (C 127 L12) and at the federal level (40 CFR 51.102) that recognize changes in technology and the reduced reliance on publishing legal ads in hard-print newspapers.

A common proposed change in the rule is the revised date for adoption of federal code by reference. The adoption by reference date was changed in roughly 40 locations in the rule from July 1, 2010 to May 1, 2012. Chapter 70.94 RCW, Washington clean air act, requires Ecology to "preserve, protect, and enhance" the air quality and to accept delegation of federal programs. This charge is partially met by keeping the state rules in sync with federal regulations.

Housekeeping

Other proposed changes are considered “Housekeeping”. These are also exempt from the analysis required in RCW 34.05.328. These proposed “housekeeping” amendments are needed to make the rule internally consistent. This type of change is shown by inserting or correcting pointers to specific sections in Chapter 173-400 WAC which improve the readability of the rule, pointing the reader to relevant sections. Other housekeeping sections include renumbering of sections, correcting spelling, grammatical, and clerical errors.

Proposed changes to 173-400-020(2) contains new rule language that clarifies which pollutant emissions are federally enforceable. Washington State has made the choice to regulate a selection of pollutants that is different than the federal list. The list of Washington State pollutants includes all of the toxic air pollutants listed in Chapter 173-460, Toxic Air Pollutants. The permit process for these pollutants is found in Ch. 173-400. However, this list of pollutants is not federally enforceable.

The proposed changes to the Applicability section, WAC 173-400-020, narrow the scope of the rule, (which will be submitted to EPA for SIP approval) so that the rule and subsequently the SIP include only those pollutants which are required to be regulated under the Federal CAA.

The proposed narrowing text will reduce the EPA approval of WAC 173-400 in the SIP to those pollutants with a NAAQS (or their identified precursor pollutants). However, for the purposes of the PSD program, PSD permits and non PSD permits and regulatory orders that limit the potential to emit a PSD regulated pollutant, are also included as part of the federal portion of the SIP. For PSD hydrogen sulfide is regulated, but it does not have a NAAQS. As a result, a PSD permit addressing hydrogen sulfide emissions, or a minor NSR permit or regulatory order limiting the potential to emit hydrogen sulfide below the major source significant levels, would also be included in the SIP approval.

The proposed revision to the definition of Air Contaminants (WAC 173-400-030) regulates those pollutants proposed by the state as precursors through the SIP process as approved by EPA. EPA would, in approving the SIP, determine those pollutants to be precursors.

As PSD programs are part of the SIP, Washington needs to make sure that greenhouse gases (GHG) are part of the SIP for purposes of applying PSD. Also, SIP-approved permit programs or other SIP-approved programs for limiting potential to emit (PTE) generally authorize the state (as part of the SIP) to issue PSD avoidance permits to keep the source minor for PSD pollutants.

V. Comparison of the Current and Proposed Rules

Proposed changes to the current rule serve several purposes, including:

- Bringing the rule into Federal compliance
- Updating references
- Streamlining and clarifying the regulatory process
- Explicitly identifying which contaminants are subject to Federal regulation and which are subject to state regulation

The proposed changes which were not required by EPA neither increase nor decrease the regulatory burden on those subject to regulation.

VI. Baseline for Analysis

The baseline for analysis of the proposed rule is the regulatory environment in the absence of any changes. Without the adoption of the proposed rule, the existing requirements would remain in place.

VII. Analysis of Costs & Benefits

The current analysis will focus on only those costs and benefits generated by proposed amendments that are not exempt from analysis. These include:

- Housekeeping.
- Clarification of which pollutants are federally enforceable.

Costs

The proposed rule doesn't impose additional costs, instead these changes are expected to relieve some of the regulatory burden on those required to comply with the rule.

Benefits

The primary benefits from the proposed rule amendments result from increased clarity for emitters as to which regulatory framework they are subject to, the permitting requirements that they face, better access to current and accurate references for compliance purposes, and less ambiguity and uncertainty. Additionally, the proposed "housekeeping" changes are expected to increase readability and implementation consistency.

While it is not possible to quantify these benefits to any degree of certainty, they are greater than zero.

Net Benefits

The proposed rule creates benefits and doesn't create costs. Therefore, the net benefits of the proposed rule are greater than zero.

VIII. Least Burdensome Analysis

RCW 34.05.328(1)(e) requires Ecology to "determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection."

Conclusion

Based on research and analysis required by RCW 34.05.328(1)(e) the Department of Ecology determines:

There is sufficient evidence that the proposed rule is the least burdensome version of the rule for those who are required to comply, given the goals and objectives of the law for Ecology to propose the rule.

Alternatives Considered

Ecology considered the three alternatives below:

1. Do nothing
2. Make only those changes necessary to bring the rule into EPA compliance
3. The amended rule as proposed

Alternative 1: Do nothing

If Ecology did not update Chapter 173-400 WAC, our State Implementation Plan would continue to be out of compliance with EPA requirements. There are many reasons why State Implementation Plans (SIPs) are necessary and important.

- **SIPs protect our air:** SIPs play a key role in meeting and maintaining good air quality and protecting citizen's health.
- **SIPs are required by law:** The federal Clean Air Act requires states with counties that fail to meet NAAQS to produce a SIP.
- **Failure to produce a SIP has consequences:** If a state fails to submit or implement a SIP, or if it submits a SIP that is unacceptable to the EPA, the EPA has the power to impose a federal implementation plan with sanctions or other penalties. Typical sanctions include cutting off federal funds and setting more stringent pollution offsets for certain emitters. Offsets are the reduction of current emissions at a rate equal to or greater than the amount of emissions expected to be produced in a new project.

SIPs typically consist of the following elements: a narrative, rules, and agreements. Chapter 173-400 WAC is one of the rules that supports Washington's SIP. If Ecology failed to amend the rule, the EPA could file a federal implementation plan against the state.

The option of EPA addressing the current deficiencies exclusively within its approval of the amended rule into the SIP was considered and rejected by EPA. EPA's preferred option would have the state address the narrowing in rule language and also address the narrowing within its approval of the rule into the SIP.

Alternative 2: Make only those updates required to meet EPA requirements

Ecology finds that if the amendments had been limited to just those required to meet federal Clean Air Standards and EPA requirements, that it would have missed opportunities to reduce the compliance burden for Washington businesses.

Alternative 3: The amended rule as proposed

Changes other than the updates to meet EPA requirements are intended to make the rule less burdensome for those required to comply with it. The intent of these changes is to improve the permitting process for both large and small business.

For the proposed rule revision itself, much of the rule language development was derived by a team of EPA and Ecology staff working together. Staff and attorneys worked collaboratively to identify the deficiencies in the existing rule language and to identify possible solutions that fit the needs of both the state and federal agencies.

Housekeeping

The amended rule updates definitions, standardizes terms used throughout the rule, corrects references to other WACs, and deletes outdated language and tables. All of these “housekeeping” edits are intended to increase readability and implementation consistency.

Ecology expects this to reduce the degree of effort and expenditure necessary for the business community to comply with the law.

Appendix A: Rationale for Rule Amendments

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-020

Applicability.

(1) The provisions of this chapter shall apply statewide, except as provided in WAC 173-400-030, 173-400-036, 173-400-100, 173-400-102, 173-400-103, 173-400-104, 173-400-110, 173-400-111, 173-400-112, 173-400-113, 173-400-171, 173-400-800 through 860, and 173-400-930.

(2) Regulations that have been or will be approved by the United States Environmental Protection Agency (EPA) for inclusion in the Washington State Implementation Plan apply for purposes of Washington's State Implementation Plan, only to the following:

(a) Those air contaminants for which EPA has established National Ambient Air Quality Standards (NAAQS) and constituents or precursors to such NAAQS pollutants as determined by EPA for the applicable geographic area; and

(b) Any additional air contaminants that are required to be regulated under Part C of Title I of the federal Clean Air Act (relating to prevention of significant deterioration and visibility), but only to the extent those additional air contaminants are required to be regulated under Part C of Title I of the federal Clean Air Act or to the extent those additional air contaminants are regulated in order to avoid such requirements.

(3) An authority may enforce this chapter and may also adopt standards or requirements. These standards or requirements may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by ecology, authorities do not have jurisdiction over the following sources:

Comment [LJW1]: EPA pointed out to Ecology that the existing language in 020 about statewide applicability was not clear when read in concert with the statewide applicability section in WAC 173-400-110(1) (a). Our intention with this revision is not to introduce a new regulatory construct, but to insert language that by listing all sections of the 400 rule that apply only to Ecology fully implements the applicability statement that was added to 400-110 several years ago.

Comment [LJW2]: This should bring into regulation those pollutants proposed by the state as precursors through the SIP process that are approved by EPA because EPA would, in approving the SIP, determine those pollutants to be precursors for that area.

Comment [LJW3]: The purpose of this new language is to assure that the scope of a state implementation plan (SIP) is limited to those pollutants for which a National Ambient Air Quality Standard (NAAQS) has been set and also limited to those pollutants that are regulated under the Prevention of Significant Deterioration (PSD) program.

This narrows the scope of EPA's SIP approval such that the SIP-approved version of Ecology's permit rules does not cover air pollutants beyond those required by the federal Clean Air Act.

Since PSD programs are part of the SIP, Washington needs to make sure, for example, that GHG's are still part of the SIP for purposes of applying PSD. Also, SIP-approv...

(a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(b) Automobiles, trucks, aircraft.

(c) Those sources under the jurisdiction of the energy facility site evaluation council.

WAC 173-400-030 Definitions. The definitions in this section apply statewide except where a permitting authority has redefined a specific term. Except as provided elsewhere in this chapter, the definitions in this section apply throughout the chapter:

(1) **"Actual emissions"** means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or an authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and

Comment [LJW4]: This edit continue the concept noted in Comment LJW1. As local air agencies can adopt their own list of definitions, we need to make a statement stating which regulation has priority when we have two different definitions of the same term.

types of materials processed, stored, or combusted during the selected time period.

(b) Ecology or an authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

(2) **"Adverse impact on visibility"** is defined in WAC 173-400-117.

(3) **"Air contaminant"** means:

(a) Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(b) For the purposes of regulation under Washington's State Implementation Plan, "air contaminant" means only:

(i) Those air contaminants for which EPA has established National Ambient Air Quality Standards (NAAQS) and constituents or precursors to such NAAQS pollutants as determined by EPA for the applicable geographic area; and

(ii) Any other additional air contaminants that are required to be regulated under Part C of Title I of the federal Clean Air Act (relating to prevention of significant deterioration and visibility), but only to the extent those additional air contaminants are required to be regulated under Part C of Title I of the federal Clean Air Act or to the extent those additional

air contaminants are regulated in order to avoid such requirements.

Comment [LJW5]:

(4) **"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. For the purposes of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) **"Allowable emissions"** means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

Comment [LJW6]: The addition of "federally" is necessary as EPA relies on enforcement of limits in federal court to protect the National Ambient Air Quality Standards. Definition (5) works with definition (36), below.

(a) The applicable standards as in 40 CFR Part 60, 61, 62, or 63;

(b) Any applicable SIP emissions limitation including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable approval condition, including those with a future compliance date.

Comment [LJW7]: Subparagraphs 5(a) and (b) capture the universe of allowable emissions. Subparagrph (c) captures those emissions that are federally enforceable. Thus "federally" is inserted here to clarify the scope.

(6) **"Ambient air"** means the surrounding outside air.

(7) **"Ambient air quality standard"** means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(8) **"Approval order"** is defined in **"order of approval."**

(9) **"Attainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard for a given criteria pollutant.

(10) **"Authority"** means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(11) **"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emission unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(12) **"Best available control technology (BACT)"** means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary 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 source or modification through application of production

processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(13) **"Best available retrofit technology (BART)"** means an 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 an existing stationary facility. 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.

(14) **"Brake horsepower (BHP)"** means the measure of an engine's horsepower without the loss in power caused by the

gearbox, alternator, differential, water pump, and other auxiliary components.

(15) **"Bubble"** means a set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

(16) **"Capacity factor"** means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(17) **"Class I area"** means any area designated under section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park;
- (h) Pasayten Wilderness; and
- (i) Spokane Indian Reservation.

(18) **"Combustion and incineration units"** means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes outdoor burning.

(19)(a) **"Commence"** as applied to construction, means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii) Entered into binding agreements or contractual obligations, which cannot be canceled 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.

(b) For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

(20) **"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.

(21) **"Criteria pollutant"** means a pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃) sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(22) **"Director"** means director of the Washington state department of ecology or duly authorized representative.

(23) **"Dispersion technique"** means a method that 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.

(24) **"Ecology"** means the Washington state department of ecology.

(25) **"Emission"** means a release of air contaminants into the ambient air.

(26) **"Emission reduction credit (ERC)"** means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(27) **"Emission standard"** and **"emission limitation"** means a requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

(28) **"Emission threshold"** means an emission of a listed air contaminant at or above the following rates:

Air Contaminant	Annual Emission Rate
Carbon monoxide:	100 tons per year
Nitrogen oxides:	40 tons per year
Sulfur dioxide:	40 tons per year
Particulate matter (PM):	25 tons per year of PM emissions

	15 tons per year of PM-10 emissions
	10 tons per year of PM-2.5
Volatile organic compounds:	40 tons per year
Fluorides:	3 tons per year
Lead:	0.6 tons per year
Sulfuric acid mist:	7 tons per year
Hydrogen sulfide (H ₂ S):	10 tons per year
Total reduced sulfur (including H ₂ S):	10 tons per year
Reduced sulfur compounds (including H ₂ S):	10 tons per year

(29) **"Emissions unit"** or **"emission unit"** means any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, chapter 70.94 or 70.98 RCW.

(30) **"Excess emissions"** means emissions of an air pollutant in excess of any applicable emission standard.

(31) **"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 173-400-200(2).

(32) **"Existing stationary facility (facility)"** is defined in WAC 173-400-151.

(33) **"Federal Clean Air Act (FCAA)"** means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(34) **"Federal Class I area"** means any federal land that is classified or reclassified Class I. The following areas are federal Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness.

(35) **"Federal land manager"** means the secretary of the department with authority over federal lands in the United States.

(36) **"Federally enforceable"** means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62 and 63, requirements established within the Washington SIP, requirements within any approval or order established under 40 CFR 52.21 or under a SIP approved new source review regulation, and emissions limitation orders issued under WAC 173-400-091.

(37) **"Fossil fuel-fired steam generator"** means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(38) **"Fugitive dust"** means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas

that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(39) **"Fugitive emissions"** means emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(40) **"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.

(41) **"Good engineering practice (GEP)"** refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(42) **"Greenhouse gases (GHGs)"** includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(43) **"Incinerator"** means a furnace used primarily for the thermal destruction of waste.

(44) **"In operation"** means engaged in activity related to the primary design function of the source.

(45) **"Mandatory Class I federal area"** means any area defined in Section 162(a) of the Federal Clean Air Act. The following areas are the mandatory Class I federal areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;

- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness;

(46) **"Masking"** means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

(47) **"Materials handling"** means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

(48) **"Modification"** means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(49) **"National Ambient Air Quality Standard (NAAQS)"** means an ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(50) **"National Emission Standards for Hazardous Air Pollutants (NESHAPS)"** means the federal rules in 40 CFR Part 61.

(51) **"National Emission Standards for Hazardous Air Pollutants for Source Categories"** means the federal rules in 40 CFR Part 63.

(52) **"Natural conditions"** means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

(53) **"New source"** means:

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and

(b) Any other project that constitutes a new source under the Federal Clean Air Act.

(54) **"New Source Performance Standards (NSPS)"** means the federal rules in 40 CFR Part 60.

(55) **"Nonattainment area"** means a geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

(56) **"Nonroad engine"** means:

(a) Except as discussed in (b) of this subsection, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(b) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

(ii) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or

(iii) The engine otherwise included in (a)(iii) of this subsection remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a

stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

(57) **"Notice of construction application"** means a written application to allow construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

(58) **"Opacity"** means the degree to which an object seen through a plume is obscured, stated as a percentage.

(59) **"Outdoor 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 or silo burners is not considered outdoor burning.

(60) **"Order"** means any order issued by ecology or a local air authority pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

(61) **"Order of approval"** or **"approval order"** means a regulatory order issued by a permitting authority to approve the notice of construction application for a proposed new source or

modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(62) **"Ozone depleting substance"** means any substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

(63) **"Particulate matter"** or **"particulates"** means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(64) **"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 Title 40, chapter I of the Code of Federal Regulations or by a test method specified in the SIP.

(65) **"Parts per million (ppm)"** means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(66) **"Permitting authority"** means ecology or the local air pollution control authority with jurisdiction over the source.

(67) **"Person"** means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(68) **"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.

(69) **"PM-10 emissions"** means finely divided solid or liquid material, including condensable particulate matter, 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 Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

(70) **"PM-2.5"** means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(71) **"PM-2.5 emissions"** means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 51 or by a test method specified in the SIP.

(72) **"Portable source"** means a type of stationary source which emits air contaminants only while at a fixed location but which is capable of being transported to various locations. Examples include a portable asphalt plant or a portable package boiler.

(73) **"Potential to emit"** means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity

of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(74) **"Prevention of significant deterioration (PSD)"** means the program in WAC 173-400-700 to 173-400-750.

(75) **"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.

(76) **"Reasonably attributable"** means attributable by visual observation or any other technique the state deems appropriate.

(77) **"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 shall be adopted only after notice and opportunity for comment are afforded.

(78) **"Regulatory order"** means an order issued by a permitting authority that requires compliance with:

(a) Any applicable provision of chapter 70.94 RCW or rules adopted there under; or

(b) Local air authority regulations adopted by the local air authority with jurisdiction over the sources to whom the order is issued.

(79) **"Secondary emissions"** means 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. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions. Secondary emissions (~~may~~) include(~~(, but are not limited to:~~

~~(a) Emissions from ships or trains located at the new or modified major stationary source; and~~

~~(b))~~ emissions from any offsite support facility which would not (~~otherwise~~) be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Comment [LJW8]: This revision makes this definition consistent with federal case law under the federal CAA.

The existing definition is not consistent with the definition of "secondary emissions" in 40 CFR 51.165(a)(1)(viii) and must be revised for SIP approval

(80) **"Source"** means all of the emissions unit(s) including quantifiable fugitive emissions, that 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 groups of products.

(81) **"Source category"** means all sources of the same type or classification.

(82) **"Stack"** means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(83) **"Stack height"** means the height of an emission point measured from the ground-level elevation at the base of the stack.

(84) **"Standard conditions"** means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.

(85) **"State implementation plan (SIP)"** or **"Washington SIP"** means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the National Ambient Air Quality Standards.

(86) **"Stationary source"** means any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation

purposes or from a nonroad engine or nonroad vehicle as defined in Section 216(11) of the Federal Clean Air Act.

(87) **"Sulfuric acid plant"** means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(88) **"Synthetic minor"** means any source whose potential to emit has been limited below applicable thresholds by means of an enforceable order, rule, or approval condition.

(89) **"Total reduced sulfur (TRS)"** means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 in Appendix A to 40 CFR Part 60 or an EPA approved equivalent method and expressed as hydrogen sulfide.

(90) **"Total suspended particulate"** means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

(91) **"Toxic air pollutant (TAP)"** or **"toxic air contaminant"** means any toxic air pollutant listed in WAC 173-460-150. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(92) **"Unclassifiable area"** means an area that cannot be designated attainment or nonattainment on the basis of available

information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

(93) **"United States Environmental Protection Agency (USEPA)"** shall be referred to as EPA.

(94) **"Visibility impairment"** means any humanly perceptible change in visibility (light extinction, visual range, contrast, or coloration) from that which would have existed under natural conditions.

(95) **"Volatile organic compound (VOC)"** means any carbon compound that participates in atmospheric photochemical reactions.

(a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate, methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a);

parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane ($n-C_3F_7OCH_3$ or HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate ($HCOOCH_3$); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); dimethyl carbonate; propylene carbonate; and perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by ecology, the authority, or EPA.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology ((~~or~~)), the authority, or EPA the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compounds are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: Tertiary-butyl acetate.

Comment [LJW9]:

A reference to "EPA," in addition to the existing references to "Ecology" and "the Authority," is needed in order for EPA to implement the exclusion provisions of the preceding paragraph (b) (the definition of February 16, 2012 2 VOC in 40 CFR 51.100(s) refers to the "enforcement authority," which would include Ecology, an authority, or EPA.

WAC

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-030, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-030, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-030, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-030, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.152. 98-01-183 (Order 96-01), § 173-400-030, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-030, filed 9/13/96, effective 10/14/96; 95-07-126 (Order 93-40), § 173-400-030, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-030, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-030, filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-036 Relocation of portable sources. (1)
Applicability.

(a) Portable sources that meet the requirements of this section may without obtaining a site-specific or permitting authority-specific order of approval relocate and operate in any jurisdiction in which the permitting authority has adopted this section by reference. The owner or operator of a portable source may file a new notice of construction application in compliance with WAC 173-400-110 each time the portable source relocates in lieu of participating in the inter-jurisdictional provisions in this section.

(b) Permitting authority participation in the inter-jurisdictional provisions of this section is optional. This section applies only in those jurisdictions where the permitting authority has adopted it. Nothing in this section affects a permitting authority's ability to enter into an agreement with another permitting authority to allow inter-jurisdictional relocation of a portable source under conditions other than those listed here except that subsection (2) of this section applies statewide.

(c) This section applies to sources that move from the jurisdiction of one permitting authority to the jurisdiction of

Comment [LJW10]: This revision makes it clear that if a local air agency wants to use this section, it must be adopted in its entirety. The intent is to prevent confusion between potentially conflicting regulatory structures.

another permitting authority, inter-jurisdictional relocation. This section does not apply to intra-jurisdictional relocation.

(d) Engines subject to WAC 173-400-035 Nonroad engines are not portable sources subject to this section.

(2) **Portable sources in nonattainment areas.** If a portable source is locating in a nonattainment area and if the source emits the pollutants or pollutant precursors for which the area is classified as nonattainment, then the source must acquire a site-specific order of approval.

(3) **Major stationary sources.** If a portable source is a major stationary source then it must also comply with WAC 173-400-700 through 173-400-750 as applicable.

(4) **Relocation requirements.** Portable sources are allowed to operate at a new location without obtaining an order of approval from the permitting authority with jurisdiction over the new location provided that:

(a) A permitting authority in Washington state issued a notice of construction order of approval for the portable source after July 1, 2010, identifying the emission units as a "portable source";

(b) The owner/operator of the portable source submits a relocation notice on a form provided by the permitting authority and a copy of the applicable portable source order of approval to the permitting authority with jurisdiction over the intended operation location a minimum of fifteen calendar days before the portable source begins operation at the new location;

Comment [LJW11]: EPA requested that the rule clearly state that major sources are subject to review under the WAC 173-400-700 series. This new statement will help insure uniform implementation of the rule. The reference to the 800 series was not correct as 400-036 (2) precludes the use of these provisions for major or minor sources that emit nonattainment pollutants in a nonattainment area.

(c) The owner/operator submits the emission inventory required under WAC 173-400-105 to each permitting authority in whose jurisdiction the portable source operated during the preceding year. The data must be sufficient in detail to enable each permitting authority to calculate the emissions within its jurisdiction and the yearly aggregate.

(d) Operation at any location under this provision is limited to one year or less. Operations lasting more than one year must obtain a site specific order of approval.

~~((4))~~ (5) **Enforcement of the order of approval.** The permitting authority with jurisdiction over the location where a portable source is operating has authority to enforce the conditions of the order of approval that authorizes the portable source operation, regardless of which permitting authority issued the order of approval. All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

~~((5))~~ (6) **Change of conditions to orders of approval.** To change the conditions in an order of approval, the owner/operator must obtain a new order of approval from the permitting authority with jurisdiction over the portable source.

~~((6))~~ (7) **Portable source modification.** Prior to beginning actual construction or installation of a modification of a portable source, the owner/operator must obtain a new order of approval from the permitting authority with jurisdiction over the portable source.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-036, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-050 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 allow 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 combusting wood derived fuels for the production of steam. No person shall allow 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 EPA method 5 in Appendix A to 40 CFR Part 60, (in effect on (~~July 1, 2010~~) May 1, 2012) or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of September 20, 2004, on file at ecology.

(2) For any incinerator, no person shall cause or allow emissions in excess of one hundred ppm of total carbonyls as measured by Source Test Method 14 procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of September 20, 2004,

Comment [LJW12]:
Update of adoption by reference date.
It is our goal to keep WAC 173-400 current with the federal regulations that are adopted by reference. This new date is found several times throughout this document.

on file at ecology. An applicable EPA reference method or other procedures to collect and analyze for the same compounds collected in the ecology method may be used if approved by the permitting authority prior to its use.

(a) **Incinerators** not subject to the requirements of chapter 173-434 WAC or WAC 173-400-050 (4) or (5), or requirements adopted by reference in WAC 173-400-075 (40 CFR 63 subpart EEE) and WAC 173-400-115 (40 CFR 60 subparts E, Ea, Eb, Ec, AAAA, and CCCC) shall be operated only during daylight hours unless written permission to operate at other times is received from the permitting authority.

(b) Total carbonyls means the concentration of organic compounds containing the =C=O radical as collected by the Ecology Source Test Method 14 contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of September 20, 2004, on file at ecology.

(3) Measured concentrations for combustion and incineration units shall be adjusted for volumes corrected to seven percent oxygen, except when the permitting authority determines that an alternate oxygen correction factor is more representative of normal operations such as the correction factor included in an applicable NSPS or NESHAP, actual operating characteristics, or the manufacturer's specifications for the emission unit.

(4) **Commercial and industrial solid waste incineration units** constructed on or before November 30, 1999.

(a) Definitions.

(i) **"Commercial and industrial solid waste incineration (CISWI) unit"** means any combustion device that combusts commercial and industrial waste, as defined in this subsection. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(A) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(ii) **"Commercial and industrial solid waste"** means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(b) Applicability. This section applies to incineration units that meet all three criteria:

(i) The incineration unit meets the definition of CISWI unit in this subsection.

(ii) The incineration unit commenced construction on or before November 30, 1999.

(iii) The incineration unit is not exempt under (c) of this subsection.

(c) The following types of incineration units are exempt from this subsection:

(i) *Pathological waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2265 (in effect on ((~~July 1, 2010~~)) May 1, 2012) are not subject to this section if you meet the two requirements specified in (c)(i)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(ii) *Agricultural waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this

Comment [LJW13]: It is our goal to keep WAC 173-400 current with the federal regulations that are adopted by reference. This new date is found several times throughout this document.

subpart if you meet the two requirements specified in (c)(ii)(A) and (B) of this subsection.

(A) Notify the permitting authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(iii) *Municipal waste combustion units.* Incineration units that meet either of the two criteria specified in (c)(iii)(A) and (B) of this subsection.

(A) Units are regulated under 40 CFR Part 60, subpart Ea or subpart Eb (in effect on (~~July 1, 2010~~) May 1, 2012); Spokane County Air Pollution Control Authority Regulation 1, Section 6.17 (in effect on February 13, 1999); 40 CFR Part 60, subpart AAAA (in effect on July 1, 2010); or WAC 173-400-050(5).

(B) Units burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR Part 60, subparts Ea (in effect on (~~July 1, 2010~~) May 1, 2012), Eb (in effect on (~~July 1, 2010~~) May 1, 2012), and AAAA (in effect on (~~July 1, 2010~~) May 1, 2012), and WAC 173-400-050(5), and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if you meet the two requirements in (c)(iii)(B)(I) and (II) of this subsection.

(I) Notify the permitting authority that the unit meets these criteria.

Comment [LJW14]:
Update of adoption by reference date.

Comment [LJW15]:
Update of adoption by reference date.

Comment [LJW16]:
Update of adoption by reference date.

(II) Keep records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(iv) *Medical waste incineration units.* Incineration units regulated under 40 CFR Part 60, subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) (in effect on (~~July 1, 2010~~) May 1, 2012);

Comment [LJW17]:
Update of adoption by reference date.

(v) *Small power production facilities.* Units that meet the three requirements specified in (c)(v)(A) through (C) of this subsection.

(A) The unit qualifies as a small power-production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vi) *Cogeneration facilities.* Units that meet the three requirements specified in (c)(vi)(A) through (C) of this subsection.

(A) The unit qualifies as a cogeneration facility under section 3 (18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of

energy used for industrial, commercial, heating, or cooling purposes.

(C) You notify the permitting authority that the unit meets all of these criteria.

(vii) *Hazardous waste combustion units.* Units that meet either of the two criteria specified in (c)(vii)(A) or (B) of this subsection.

(A) Units for which you are required to get a permit under section 3005 of the Solid Waste Disposal Act.

(B) Units regulated under subpart EEE of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (in effect on ((~~July 1, 2010~~) May 1, 2012)).

Comment [LJW18]:
Update of adoption by reference date.

(viii) *Materials recovery units.* Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters;

(ix) *Air curtain incinerators.* Air curtain incinerators that burn only the materials listed in (c)(ix)(A) through (C) of this subsection are only required to meet the requirements under "Air Curtain Incinerators" in 40 CFR 60.2245 through 60.2260 (in effect on ((~~July 1, 2010~~) May 1, 2012)).

Comment [LJW19]:
Update of adoption by reference date.

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(x) *Cyclonic barrel burners.* See 40 CFR 60.2265 (in effect on ((~~July 1, 2010~~) May 1, 2012)).

Comment [LJW20]:
Update of adoption by reference date.

(xi) *Rack, part, and drum reclamation units.* See 40 CFR 60.2265 (in effect on (~~July 1, 2010~~) May 1, 2012).

Comment [LJW21]:
Update of adoption by reference date.

(xii) *Cement kilns.* Kilns regulated under subpart LLL of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) (in effect on (~~July 1, 2010~~) May 1, 2012).

(xiii) *Sewage sludge incinerators.* Incineration units regulated under 40 CFR Part 60, (Standards of Performance for Sewage Treatment Plants) (in effect on (~~July 1, 2010~~) May 1, 2012).

Comment [LJW22]:
Update of adoption by reference date.

(xiv) *Chemical recovery units.* Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. The seven types of units described in (c)(xiv)(A) through (G) of this subsection are considered chemical recovery units.

(A) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(B) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(C) Units burning only wood or coal feedstock for the production of charcoal.

(D) Units burning only manufacturing by-product streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(E) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(F) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(G) Units burning only photographic film to recover silver.

(xv) *Laboratory analysis units.* Units that burn samples of materials for the purpose of chemical or physical analysis.

(d) Exceptions.

(i) Physical or operational changes to a CISWI unit made primarily to comply with this section do not qualify as a "modification" or "reconstruction" (as defined in 40 CFR 60.2815, in effect on ((July 1, 2010)) May 1, 2012).

(ii) Changes to a CISWI unit made on or after June 1, 2001, that meet the definition of "modification" or "reconstruction" as defined in 40 CFR 60.2815 (in effect on ((July 1, 2010)) May 1, 2012) mean the CISWI unit is considered a new unit and subject to WAC 173-400-115, which adopts 40 CFR Part 60, subpart CCCC by reference.

(e) A CISWI unit must comply with 40 CFR 60.2575 through 60.2875, in effect on ((July 1, 2010)) May 1, 2012, which is adopted by reference. The federal rule contains these major components:

- Increments of progress towards compliance in 60.2575 through 60.2630;

Comment [LJW23]: Update of adoption by reference date.

Comment [LJW24]: Update of adoption by reference date.

Comment [LJW25]: Update of adoption by reference date.

Comment [LJW26]: Update of adoption by reference date.

- Waste management plan requirements in 60.2620 through 60.2630;
- Operator training and qualification requirements in 60.2635 through 60.2665;
- Emission limitations and operating limits in 60.2670 through 60.2685;
- Performance testing requirements in 60.2690 through 60.2725;
- Initial compliance requirements in 60.2700 through 60.2725;
- Continuous compliance requirements in 60.2710 through 60.2725;
- Monitoring requirements in 60.2730 through 60.2735;
- Recordkeeping and reporting requirements in 60.2740 through 60.2800;
- Title V operating permits requirements in 60.2805;
- Air curtain incinerator requirements in 60.2810 through 60.2870;
- Definitions in 60.2875; and
- Tables in 60.2875. In Table 1, the final control plan must be submitted before June 1, 2004, and final compliance must be achieved by June 1, 2005.

(i) Exception to adopting the federal rule. For purposes of this section, "administrator" includes the permitting authority.

(ii) Exception to adopting the federal rule. For purposes of this section, "you" means the owner or operator.

(iii) Exception to adopting the federal rule. For purposes of this section, each reference to "the effective date of state plan approval" means July 1, 2002.

(iv) Exception to adopting the federal rule. The Title V operating permit requirements in 40 CFR 2805(a) are not adopted by reference. Each CISWI unit, regardless of whether it is a major or nonmajor unit, is subject to the air operating permit regulation, chapter 173-401 WAC, beginning on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

(v) Exception to adopting the federal rule. The following compliance dates apply:

(A) The final control plan (Increment 1) must be submitted no later than July 1, 2003. (See Increment 1 in Table 1.)

(B) Final compliance (Increment 2) must be achieved no later than July 1, 2005. (See Increment 2 in Table 1.)

(5) **Small municipal waste combustion units** constructed on or before August 30, 1999.

(a) Definition. "Municipal waste combustion unit" means any setting or equipment that combusts, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved air- or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air-curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion

units. Two criteria further define municipal waste combustion units:

(i) Municipal waste combustion units do not include the following units:

(A) Pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under the exemptions in this subsection (5)(c)(viii) and (ix).

(B) Cement kilns that combust municipal solid waste as specified under the exemptions in this subsection (5)(c)(x).

(C) Internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(ii) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(A) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(C) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(b) Applicability. This section applies to a municipal waste combustion unit that meets these three criteria:

(i) The municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(ii) The municipal waste combustion unit commenced construction on or before August 30, 1999.

(iii) The municipal waste combustion unit is not exempt under (c) of this section.

(c) Exempted units. The following municipal waste combustion units are exempt from the requirements of this section:

(i) *Small municipal waste combustion units that combust less than 11 tons per day.* Units are exempt from this section if four requirements are met:

(A) The municipal waste combustion unit is subject to a federally enforceable order or order of approval limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator of the unit sends a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(ii) *Small power production units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iii) *Cogeneration units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (18)(C) of the Federal Power Act (16 U.S.C. 796 (18)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(iv) *Municipal waste combustion units that combust only tires.* Units are exempt from this section if three requirements are met:

(A) The municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits documentation to the permitting authority that the unit qualifies for the exemption.

(v) *Hazardous waste combustion units.* Units are exempt from this section if the units have received a permit under section 3005 of the Solid Waste Disposal Act.

(vi) *Materials recovery units.* Units are exempt from this section if the units combust waste mainly to recover metals. Primary and secondary smelters may qualify for the exemption.

(vii) *Cofired units.* Units are exempt from this section if four requirements are met:

(A) The unit has a federally enforceable order or order of approval limiting municipal solid waste combustion to no more than 30 percent of total fuel input by weight.

(B) The owner or operator notifies the permitting authority that the unit qualifies for the exemption.

(C) The owner or operator submits a copy of the federally enforceable order or order of approval to the permitting authority.

(D) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(viii) *Plastics/rubber recycling units.* Units are exempt from this section if four requirements are met:

(A) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined in 40 CFR 60.1940 (in effect on ~~((July 1, 2010))~~ **May 1, 2012**).

Comment [LJW27]: Update of adoption by reference date.

(B) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(C) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(D) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(ix) *Units that combust fuels made from products of plastics/rubber recycling plants.* Units are exempt from this section if two requirements are met:

(A) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or

petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(B) The unit does not combust any other municipal solid waste.

(x) *Cement kilns.* Cement kilns that combust municipal solid waste are exempt.

(xi) *Air curtain incinerators.* If an air curtain incinerator as defined under 40 CFR 60.1910 (in effect on (~~July 1, 2010~~) May 1, 2012) combusts 100 percent yard waste, then those units must only meet the requirements under 40 CFR 60.1910 through 60.1930 (in effect on (~~July 1, 2010~~) May 1, 2012).

Comment [LJW28]: Update of adoption by reference date.

Comment [LJW29]: Update of adoption by reference date.

(d) Exceptions.

(i) Physical or operational changes to an existing municipal waste combustion unit made primarily to comply with this section do not qualify as a modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on (~~July 1, 2010~~) May 1, 2012).

Comment [LJW30]: Update of adoption by reference date.

(ii) Changes to an existing municipal waste combustion unit made on or after June 6, 2001, that meet the definition of modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on (~~July 1, 2010~~) May 1, 2012), mean the unit is considered a new unit and subject to WAC 173-400-115, which adopts 40 CFR Part 60, subpart AAAA (in effect on (~~July 1, 2010~~) May 1, 2012).

Comment [LJW31]: Update of adoption by reference date.

Comment [LJW32]: Update of adoption by reference date.

(e) Municipal waste combustion units are divided into two subcategories based on the aggregate capacity of the municipal waste combustion plant as follows:

(i) Class I units. Class I units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on ((July 1, 2010)) May 1, 2012) for the specification of which units are included in the aggregate capacity calculation.

Comment [LJW33]: Update of adoption by reference date.

(ii) Class II units. Class II units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on ((July 1, 2010)) May 1, 2012) for the specification of which units are included in the aggregate capacity calculation.

Comment [LJW34]: Update of adoption by reference date.

(f) Compliance option 1.

(i) A municipal solid waste combustion unit may choose to reduce, by the final compliance date of June 1, 2005, the maximum combustion capacity of the unit to less than 35 tons per day of municipal solid waste. The owner or operator must submit a final control plan and the notifications of achievement of increments of progress as specified in 40 CFR 60.1610 (in effect on ((July 1, 2010)) May 1, 2012).

Comment [LJW35]: Update of adoption by reference date.

(ii) The final control plan must, at a minimum, include two items:

(A) A description of the physical changes that will be made to accomplish the reduction.

(B) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on ((~~July 1, 2010~~)) May 1, 2012) to calculate the combustion capacity of a municipal waste combustion unit.

Comment [LJW36]: Update of adoption by reference date.

(iii) An order or order of approval containing a restriction or a change in the method of operation does not qualify as a reduction in capacity. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on ((~~July 1, 2010~~)) May 1, 2012) to calculate the combustion capacity of a municipal waste combustion unit.

Comment [LJW37]: Update of adoption by reference date.

(g) Compliance option 2. The municipal waste combustion unit must comply with 40 CFR 60.1585 through 60.1905, and 60.1935 (in effect on ((~~July 1, 2010~~)) May 1, 2012), which is adopted by reference.

Comment [LJW38]: Update of adoption by reference date.

(i) The rule contains these major components:

(A) Increments of progress towards compliance in 60.1585 through 60.1640;

(B) Good combustion practices - Operator training in 60.1645 through 60.1670;

(C) Good combustion practices - Operator certification in 60.1675 through 60.1685;

(D) Good combustion practices - Operating requirements in 60.1690 through 60.1695;

(E) Emission limits in 60.1700 through 60.1710;

(F) Continuous emission monitoring in 60.1715 through 60.1770;

(G) Stack testing in 60.1775 through 60.1800;

(H) Other monitoring requirements in 60.1805 through 60.1825;

(I) Recordkeeping reporting in 60.1830 through 60.1855;

(J) Reporting in 60.1860 through 60.1905;

(K) Equations in 60.1935;

(L) Tables 2 through 8.

(ii) Exception to adopting the federal rule. For purposes of this section, each reference to the following is amended in the following manner:

(A) "State plan" in the federal rule means WAC 173-400-050(5).

(B) "You" in the federal rule means the owner or operator.

(C) "Administrator" includes the permitting authority.

(D) "The effective date of the state plan approval" in the federal rule means December 6, 2002.

(h) Compliance schedule.

(i) Small municipal waste combustion units must achieve final compliance or cease operation not later than December 1, 2005.

(ii) Small municipal waste combustion units must achieve compliance by May 6, 2005 for all Class II units, and by November 6, 2005 for all Class I units.

(iii) Class I units must comply with these additional requirements:

(A) The owner or operator must submit the dioxins/furans stack test results for at least one test conducted during or after 1990. The stack test must have been conducted according to the procedures specified under 40 CFR 60.1790 (in effect on ~~(July 1, 2010)~~ May 1, 2012).

Comment [LJW39]: Update of adoption by reference date.

(B) Class I units that commenced construction after June 26, 1987, must comply with the dioxins/furans and mercury limits specified in Tables 2 and 3 in 40 CFR Part 60, subpart BBBBB (in effect on February 5, 2001) by the later of two dates:

(I) December 6, 2003; or

(II) One year following the issuance of an order of approval (revised construction approval or operation permit) if an order or order of approval or operation modification is required.

(i) Air operating permit. Applicability to chapter 173-401 WAC, the air operating permit regulation, begins on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-050, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-050, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-050, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 91-05-064 (Order 90-06), § 173-400-050,

filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-070 Emission standards for certain source categories. Ecology 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 maximum allowable 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 and silo burners.

(a) All wigwam and silo burners designed to dispose of wood waste must meet all provisions of WAC 173-400-040 (3), (4), (5), (6), (7), (8), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.

(b) All wigwam and silo burners must use RACT. 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 ecology or the permitting 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 permit authority may establish additional requirements for wigwam and silo burners. 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 and silo burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(2), visible emissions. An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology 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 allow soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and the permitting authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and 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 is 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:

(i) No person shall cause or allow 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 allow 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 applicable provisions of WAC 173-400-040. In addition, wood waste burners subject to WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) must meet all applicable provisions of those sections.

(b) Such wood waste burners shall utilize RACT and 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 H_2SO_4 , in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H_2SO_4 .

(8) ~~((Sewage sludge incinerators. Standards for the incineration of sewage sludge found in 40 CFR Part 503 subparts~~

Comment [LJW40]: EPA has adopted a new sewage sludge incinerator New Source Performance Standard, NSPS, that makes this provision obsolete.

~~A (General Provisions) and E (Incineration) in effect on July 1, 2010, are adopted by reference.~~

~~(9))~~ **Municipal solid waste landfills constructed, reconstructed, or modified before May 30, 1991.** A municipal solid waste landfill (MSW landfill) is an entire disposal facility in a contiguous geographical space where household waste is placed in or on the land. A MSW landfill may also receive other types of waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act including the following: Commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. A MSW landfill may be either publicly or privately owned. A MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion. All references in this subsection to 40 CFR Part 60 rules mean those rules in effect on July 1, 2000.

(a) Applicability. These rules apply to each MSW landfill constructed, reconstructed, or modified before May 30, 1991; and the MSW landfill accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition. (See WAC 173-400-115 for the requirements for MSW landfills constructed, reconstructed, or modified on or after May 30, 1991.) Terms in this subsection have the meaning given them in 40 CFR 60.751, except that every use of the word "administrator" in the federal rules referred to in this subsection includes the "permitting authority."

(b) Exceptions. Any physical or operational change to an MSW landfill made solely to comply with these rules is not considered a modification or rebuilding.

(c) Standards for MSW landfill emissions.

(i) A MSW landfill having a design capacity less than 2.5 million megagrams or 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(a) in addition to the applicable requirements specified in this section.

(ii) A MSW landfill having design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(b) in addition to the applicable requirements specified in this section.

(d) Recordkeeping and reporting. A MSW landfill must follow the recordkeeping and reporting requirements in 40 CFR 60.757 (submission of an initial design capacity report) and 40 CFR 60.758 (recordkeeping requirements), as applicable, except as provided for under (d)(i) and (ii).

(i) The initial design capacity report for the facility is due before September 20, 2001.

(ii) The initial nonmethane organic compound (NMOC) emissions rate report is due before September 20, 2001.

(e) Test methods and procedures.

(i) A MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must calculate the landfill nonmethane organic compound emission rates following the procedures listed in 40 CFR 60.754, as

applicable, to determine whether the rate equals or exceeds 50 megagrams per year.

(ii) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 CFR 60.753.

(B) The systems must follow the compliance provisions in 40 CFR 60.755 (a)(1) through (a)(6) to determine whether the system is in compliance with 40 CFR 60.752 (b)(2)(ii).

(C) The system must follow the applicable monitoring provisions in 40 CFR 60.756.

(f) Conditions. Existing MSW landfills that meet the following conditions must install a gas collection and control system:

(i) The landfill accepted waste at any time since November 8, 1987, or the landfill has additional design capacity available for future waste deposition;

(ii) The landfill has design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exception values. Any density conversions shall be documented and submitted with the report; and

(iii) The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or greater.

(g) Change in conditions. After the adoption date of this rule, a landfill that meets all three conditions in (e) of this subsection must comply with all the requirements of this section within thirty months of the date when the conditions were met. This change will usually occur because the NMOC emission rate equaled or exceeded the rate of 50 megagrams per year.

(h) Gas collection and control systems.

(i) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii).

(ii) The design plans must be prepared by a licensed professional engineer and submitted to the permitting authority within one year after the adoption date of this section.

(iii) The system must be installed within eighteen months after the submittal of the design plans.

(iv) The system must be operational within thirty months after the adoption date of this section.

(v) The emissions that are collected must be controlled in one of three ways:

(A) An open flare designed and operated according to 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 percent by weight; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis to three percent oxygen, or less.

(i) Air operating permit.

(i) A MSW landfill that has a design capacity less than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is not subject to the air operating permit regulation, unless the landfill is subject to chapter 173-401 WAC for some other reason. If the design capacity of an exempted MSW landfill subsequently increases to equal or exceed 2.5 million megagrams or 2.5 million cubic meters by a change that is not a modification or reconstruction, the landfill is subject to chapter 173-401 WAC on the date the amended design capacity report is due.

(ii) A MSW landfill that has a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is subject to chapter 173-401 WAC beginning on the effective date of this section. (Note: Under 40 CFR 62.14352(e), an applicable MSW landfill must have submitted its application so that by April 6, 2001, the permitting authority was able to determine that it was timely and complete. Under 40 CFR 70.7(b), no source may operate after the time that it is required to submit a timely and complete application.)

(iii) When a MSW landfill is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit for the landfill if the landfill is not subject to chapter 173-401 WAC for some other reason and if either of the following conditions are met:

(A) The landfill was never subject to the requirement for a control system under 40 CFR 62.14353; or

(B) The landfill meets the conditions for control system removal specified in 40 CFR 60.752 (b)(2)(v).

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-070, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-070, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-070, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-070, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-070, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-070, filed 9/13/96, effective 10/14/96; 91-05-064 (Order 90-06), § 173-400-070, filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) National emission standards for hazardous air pollutants (NESHAPs). 40 CFR Part 61 and Appendices in effect on (~~July 1, 2010~~) May 1, 2012, are adopted by reference. The term "administrator" in 40 CFR Part 61 includes the permitting authority.

Comment [LJW41]: Update of adoption by reference date.

(2) The permitting authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Parts 51, 60, 61, 62, 63 and 65 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

Comment [LJW42]: Parts 51 and 60 were omitted by a clerical error, not purposefully. They are added here to correctly disclose the pertinent sections of 40 CFR.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must conform with the requirements of 40 CFR Parts 51, 60, 61, 62, 63 and 65.

Comment [LJW43]: Parts 51 and 60 were omitted by a clerical error, not purposefully. They are added here to correctly disclose the pertinent sections of 40 CFR.

(4) This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

(5) Submit reports required by 40 CFR Parts 61 and 63 to the permitting authority, unless otherwise instructed.

(6) National Emission Standards for Hazardous Air Pollutants for Source Categories.

Adopt by reference.

(a) 40 CFR Part 63 and Appendices in effect on (~~July 1, 2010~~) May 1, 2012, as they apply to major stationary sources of hazardous air pollutants are adopted by reference, except for Subpart M, National Perchloroethylene Emission Standards for Dry Cleaning Facilities, as it applies to nonmajor sources. The term "administrator" in 40 CFR Part 63 includes the permitting authority.

Comment [LJW44]: Update of adoption by reference date.

(b) 40 CFR Part 63 and Appendices in effect on (~~July 1, 2010~~) May 1, 2012, as they apply to these specific area sources of hazardous air pollutants are adopted by reference:

Comment [LJW45]: Update of adoption by reference date.

- (i) Subpart EEEEE, Primary Copper Smelting;
- (ii) Subpart FFFFF, Secondary Copper Smelting;
- (iii) Subpart GGGGG, Primary Nonferrous Metal;
- (iv) Subpart SSSSS, Pressed and Blown Glass Manufacturing;
- (v) Subpart YYYYY, Stainless and Nonstainless Steel Manufacturing (electric arc furnace);
- (vi) Subpart EEE, Hazardous Waste Incineration;
- (vii) Subpart IIIII, Mercury Cell Chlor-Alkali Plants;
- (viii) Subpart LLL, Portland Cement;
- (ix) Subpart X, Secondary Lead Smelting;
- (x) MMMMM, Carbon black production;
- (xi) NNNNN, Chromium compounds; and
- (xii) VVVVV, Chemical manufacturing for synthetic minors.
- (xiii) EEEEE, Gold Mine Ore Processing and Production.

Comment [LJW46]: The addition of the sixth "M" corrects a clerical error.

(c) The area source rules in 40 CFR Part 63 and appendices in effect on May 1, 2012, are adopted by reference as they apply to a stationary source located at a chapter 401 source subject to chapter 173-401 WAC, operating permit regulation.

(d) 40 CFR Part 63, as amended by the proposed revisions in 76 Federal Register 80544 - 80552 (December 23, 2011) for Subpart JJJJJJ: Industrial, Commercial and Institutional Boilers, is adopted by reference. [FR DOC # 2011-31644]

Note to reader: Should EPA finalize its rules before we finalize this rule making, ecology intends to adopt the final revisions to Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers by reference when finalizing this rule making. If EPA does not finalize these revisions before Ecology finalizes these rule revisions, then the draft version of Subpart JJJJJJ will not be adopted into the state rule.

(e) 40 CFR Part 63, as amended by the proposed revisions in 76 Federal Register 80627 - 80672 (December 23, 2011) Subpart DDDDD - National emission for major sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, is adopted by reference. [FR DOC # 2011-31667]

Note to reader: Should EPA finalize its rules before we finalize this rule making, ecology intends to adopt the final revisions to Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters by reference when finalizing this rule making. If EPA does not finalize these revisions before Ecology finalizes these rule revisions, then the draft version of Subpart DDDDD will not be adopted into the state rule.

Comment [LJW47]: On March 21, 2011, the EPA promulgated national emission standards for the control of hazardous air pollutants from two area source categories: industrial boilers, and commercial and institutional boilers.

Ecology is adopting this update to keep the WAC as current as possible for those emission sources that we regulate.

Comment [LJW48]: On March 21, 2011, the EPA promulgated national emission standards for the control of hazardous air pollutants from new and existing industrial, commercial, and institutional boilers and process heaters at major sources of hazardous air pollutants.

Ecology is adopting this update to keep the WAC as current as possible for those emission sources that we regulate.

(7) **Consolidated requirements for the synthetic organic chemical manufacturing industry.** 40 CFR Part 65, in effect on ((July 1, 2010)) May 1, 2012, is adopted by reference.

Comment [LJW49]: Update of adoption by reference date.

(8) **Emission standards for perchloroethylene dry cleaners.**
(a) **Applicability.**

(i) This section applies to all dry cleaning systems that use perchloroethylene (PCE). Each dry cleaning system must follow the applicable requirements in Table 1:

TABLE 1 PCE Dry Cleaner Source Categories

Dry cleaning facilities with:	Small area source purchases less than:	Large area source purchases between:	Major source purchases more than:
Only Dry-to-Dry Machines	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons PCE/yr

(ii) Major sources. In addition to the requirements in this section, a dry cleaning system that is considered a major source according to Table 1 must follow the federal requirements for major sources in 40 CFR Part 63, Subpart M (in effect on ((July 1, 2010)) May 1, 2012).

Comment [LJW50]: Update of adoption by reference date.

(iii) It is illegal to operate a transfer machine and any machine that requires the movement of wet clothes from one machine to another for drying.

(b) Additional requirements for dry cleaning systems located in a residential building. A residential building is a building where people live.

(i) It is illegal to locate a dry cleaning machine using perchloroethylene in a residential building.

(ii) If you installed a dry cleaning machine using perchloroethylene in a building with a residence before December 21, 2005, you must remove the system by December 21, 2020.

(iii) In addition to requirements found elsewhere in this rule, you must operate the dry cleaning system inside a vapor barrier enclosure. A vapor barrier enclosure is a room that encloses the dry cleaning system. The vapor barrier enclosure must be:

(A) Equipped with a ventilation system that exhausts outside the building and is completely separate from the ventilation system for any other area of the building. The exhaust system must be designed and operated to maintain negative pressure and a ventilation rate of at least one air change per five minutes.

(B) Constructed of glass, plexiglass, polyvinyl chloride, PVC sheet 22 mil thick (0.022 in.), sheet metal, metal foil face composite board, or other materials that are impermeable to perchloroethylene vapor.

(C) Constructed so that all joints and seams are sealed except for inlet make-up air and exhaust openings and the entry door.

(iv) The exhaust system for the vapor barrier enclosure must be operated at all times that the dry cleaning system is in operation and during maintenance. The entry door to the enclosure may be open only when a person is entering or exiting the enclosure.

(c) Operations and maintenance record.

(i) Each dry cleaning facility must keep an operations and maintenance record that is available upon request.

(ii) The information in the operations and maintenance record must be kept on-site for five years.

(iii) The operations and maintenance record must contain the following information:

(A) Inspection: The date and result of each inspection of the dry cleaning system. The inspection must note the condition of the system and the time any leaks were observed.

(B) Repair: The date, time, and result of each repair of the dry cleaning system.

(C) Refrigerated condenser information. If you have a refrigerated condenser, enter this information:

(I) The air temperature at the inlet of the refrigerated condenser;

(II) The air temperature at the outlet of the refrigerated condenser;

(III) The difference between the inlet and outlet temperature readings; and

(IV) The date the temperature was taken.

(D) Carbon adsorber information. If you have a carbon adsorber, enter this information:

(I) The concentration of PCE in the exhaust of the carbon adsorber; and

(II) The date the concentration was measured.

(E) A record of the volume of PCE purchased each month must be entered by the first of the following month;

(F) A record of the total amount of PCE purchased over the previous twelve months must be entered by the first of each month;

(G) All receipts of PCE purchases; and

(H) A record of any pollution prevention activities that have been accomplished.

(d) **General operations and maintenance requirements.**

(i) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges.

(ii) Close the door of each dry cleaning machine except when transferring articles to or from the machine.

(iii) Store all PCE, and wastes containing PCE, in a closed container with no perceptible leaks.

(iv) Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.

(v) Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

(vi) Keep a copy on-site of the design specifications and operating manuals for all emissions control devices.

(vii) Route the PCE gas-vapor stream from the dry cleaning system through the

applicable equipment in Table 2:
TABLE 2. Minimum PCE Vapor Vent Control Requirements

Small area source	Large area source	Major source	Dry cleaner located in a building where people live
Refrigerated condenser for all machines installed after September 21, 1993.	Refrigerated condenser for all machines.	Refrigerated condenser with a carbon adsorber for all machines installed after September 21, 1993.	Refrigerated condenser with a carbon adsorber for all machines and a vapor barrier enclosure.

(e) **Inspection.**

(i) The owner or operator must inspect the dry cleaning system at a minimum following the requirements in Table 3 and Table 4:

TABLE 3. Minimum Inspection Frequency

Small area source	Large area source	Major source	Dry cleaner located in a building where people live
Once every 2 weeks.	Once every week.	Once every week.	Once every week.

TABLE 4. Minimum Inspection Frequency Using Portable Leak Detector

Small area source	Large area source	Major source	Dry cleaner located in a building where people may live
Once every month.	Once every month.	Once every month.	Once every week.

(ii) You must check for leaks using a portable leak detector.

(A) The leak detector must be able to detect concentrations of (~~perchloroethylene~~ [~~perchloroethylene~~]) perchloroethylene of 25 parts per million by volume.

(B) The leak detector must emit an audible or visual signal at 25 parts per million by volume.

(C) You must place the probe inlet at the surface of each component where leakage could occur and move it slowly along the joints.

(iii) You must examine these components for condition and perceptible leaks:

(A) Hose and pipe connections, fittings, couplings, and valves;

(B) Door gaskets and seatings;

(C) Filter gaskets and seatings;

(D) Pumps;

(E) Solvent tanks and containers;

(F) Water separators;

(G) Muck cookers;

(H) Stills;

(I) Exhaust dampers; and

(J) Cartridge filter housings.

(iv) The dry cleaning system must be inspected while it is operating.

(v) The date and result of each inspection must be entered in the operations and maintenance record at the time of the inspection.

(f) **Repair.**

(i) Leaks must be repaired within twenty-four hours of detection if repair parts are available.

(ii) If repair parts are unavailable, they must be ordered within two working days of detecting the leak.

(iii) Repair parts must be installed as soon as possible, and no later than five working days after arrival.

(iv) The date and time each leak was discovered must be entered in the operations and maintenance record.

(v) The date, time, and result of each repair must be entered in the operations and maintenance record at the time of the repair.

(g) **Requirements for systems with refrigerated condensers.**

A dry cleaning system using a refrigerated condenser must meet all of the following requirements:

(i) Outlet air temperature.

(A) Each week the air temperature sensor at the outlet of the refrigerated condenser must be checked.

(B) The air temperature at the outlet of the refrigerated condenser must be less than or equal to 45°F (7.2°C) during the cool-down period.

(C) The air temperature must be entered in the operations and maintenance record manual at the time it is checked.

(D) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a dry-to-dry machine, dryer or reclaimer at the outlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C); and

(IV) The air temperature sensor must be labeled "RC outlet."

(ii) Inlet air temperature.

(A) Each week the air temperature sensor at the inlet of the refrigerated condenser installed on a washer must be checked.

(B) The inlet air temperature must be entered in the operations and maintenance record at the time it is checked.

(C) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a washer at the inlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120 F (48.9°C).

(IV) The air temperature sensor must be labeled "RC inlet."

(iii) For a refrigerated condenser used on the washer unit of a transfer system, the following are additional requirements:

(A) Each week the difference between the air temperature at the inlet and outlet of the refrigerated condenser must be calculated.

(B) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11.1°C).

(C) The difference between the inlet and outlet air temperature must be entered in the operations and maintenance record each time it is checked.

(iv) A converted machine with a refrigerated condenser must be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machine is open;

(v) The refrigerated condenser must not vent the air-PCE gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened; and

(vi) The refrigerated condenser in a transfer machine may not be coupled with any other equipment.

(h) **Requirements for systems with carbon adsorbers.** A dry cleaning system using a carbon adsorber must meet all of the following requirements:

(i) Each week the concentration of PCE in the exhaust of the carbon adsorber must be measured at the outlet of the carbon adsorber using a colorimetric detector tube.

(ii) The concentration of PCE must be written in the operations and maintenance record each time the concentration is checked.

(iii) If the dry cleaning system was constructed before December 9, 1991, monitoring must begin by September 23, 1996.

(iv) The colorimetric tube must meet these requirements:

(A) The colorimetric tube must be able to measure a concentration of 100 parts per million of PCE in air.

(B) The colorimetric tube must be accurate to within 25 parts per million.

(C) The concentration of PCE in the exhaust of the carbon adsorber must not exceed 100 ppm while the dry cleaning machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber.

(v) If the dry cleaning system does not have a permanently fixed colorimetric tube, a sampling port must be provided within the exhaust outlet of the carbon adsorber. The sampling port must meet all of these requirements:

(A) The sampling port must be easily accessible;

(B) The sampling port must be located 8 stack or duct diameters downstream from a bend, expansion, contraction or outlet; and

(C) The sampling port must be 2 stack or duct diameters upstream from a bend, expansion, contraction, inlet or outlet.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-075, filed 3/1/11, effective 4/1/11. Statutory

Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-075, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-075, filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 70.94.331. 02-15-068 (Order 02-09), § 173-400-075, filed 7/11/02, effective 8/11/02. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-075, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130 (Order 98-27), § 173-400-075, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-075, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-075, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-075, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-075, filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-081 Startup and shutdown. (1) In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) the permitting authorities will consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown.

(2) Where the permitting authority determines that the source or source category, when operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, the permitting authority must include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions.

(3)(a) In modeling the emissions of a source for purposes of demonstrating attainment or maintenance of national ambient air quality standards, the permitting authorities shall take into account any incremental increase in allowable emissions under startup or shutdown conditions authorized by an emission limitation or other operating parameter adopted under this rule.

(b) The review of a PSD permit must also include an evaluation of the impacts of allowable emissions during stationary source startup and shutdown on:

(i) Protection of increment; and

(ii) Air quality related values.

(c) The review of a major nonattainment permit must also include a determination of additional emission offsets required for allowable emissions occurring during stationary source startup and shutdown.

(4) Any emission limitation or other parameter adopted under this rule which increases allowable emissions during startup or shutdown conditions over levels authorized in Washington's state implementation plan shall not take effect until approved by EPA as a SIP amendment.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-081, filed 3/1/11, effective 4/1/11; 93-18-007 (Order 93-03), § 173-400-081, filed 8/20/93, effective 9/20/93.]

Comment [LJW51]: A goal of this rule revision is to adopt language that can later be submitted to EPA for approval of Ecology's Prevention of Significant Deterioration (PSD) permit program. EPA has stated that incorporation of these federal standards into rule is required for that approval.

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-105 Records, monitoring, and reporting. The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory will include stack and fugitive emissions of particulate matter, PM-10, PM-2.5, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, ammonia, and other contaminants. The format for the submittal of these inventories will be specified by the permitting authority or ecology. When submittal of emission inventory information is requested, the emissions inventory shall be submitted no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards. Emission estimates used in the inventory may be based on the most recent published EPA emission factors for a

source category, or other information available to the owner(s) or operator(s), whichever is the better estimate.

(2) **Monitoring.** Ecology 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 of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) **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, personnel from ecology or an 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.

(4) **Source testing.** To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR Parts 51, 60, 61 and 63 (in effect on ~~((July 1, 2010))~~ May 1, 2012) or procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of ecology, as of September 20, 2004, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source

Comment [LJW52]: Update of adoption by reference date.

shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(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.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(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 ecology or the authority by the owner(s) or operator(s).

(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 (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this subsection shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on (~~July 1, 2010~~) May 1, 2012).

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology 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.

Comment [LJW53]: Update of adoption by reference date.

(g) Exemptions. This subsection (5) does not apply to any emission unit which is:

(i) Required to continuously monitor emissions due to a standard or requirement contained in 40 CFR Parts 60, 61, 62, 63, or 75 or a permitting authority's adoption by reference of such federal standards. Emission units and sources subject to those standards shall comply with the data collection requirements that apply to those standards.

(ii) Not subject to an applicable emission standard.

(6) Change in raw materials or fuels for sources not subject to requirements of the operating permit program. 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 subsection (1) of this section shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the 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. If the increase in SO₂ emissions qualifies as a modification or a major modification of an existing stationary source, the appropriate permits, as required by WAC 173-400-110(2), must be obtained.

Comment [LJW54]:
Ecology contends that this review standard has historically been required. EPA requested this direct and unequivocal link to eliminate any doubt as to the applicability of the minor new source review standards.

(7) No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(8) Continuous emission monitoring system operating requirements. All continuous emission monitoring systems (CEMS) required by 40 CFR Parts 60, 61, 62, 63, or 75, or a permitting authority's adoption of those federal standards must meet the continuous emission monitoring systems (CEMS) performance specifications and data recovery requirements imposed by those standards. All CEMS required under an order, PSD permit, or regulation issued by a permitting authority and not subject to CEMS performance specifications and data recovery requirements imposed by 40 CFR Parts 60, 61, 62, 63, or 75 must follow the continuous emission monitoring rule of the permitting authority, or if the permitting authority does not have a continuous emission monitoring rule, must meet the following requirements:

(a) The owner or operator shall recover valid hourly monitoring data for at least 95 percent of the hours that the equipment (required to be monitored) is operated during each calendar month except for periods of monitoring system downtime, provided that the owner or operator demonstrated that the downtime was not a result of inadequate design, operation, or maintenance, or any other reasonable preventable condition, and any necessary repairs to the monitoring system are conducted in a timely manner.

(b) The owner or operator shall install a continuous emission monitoring system that meets the performance specification in 40 CFR Part 60, Appendix B in effect at the time of its installation, and shall operate this monitoring system in accordance with the quality assurance procedures in Appendix F of 40 CFR Part 60 in effect on ((July 1, 2010)) May 1, 2012, and the U.S. Environmental Protection Agency's "Recommended Quality Assurance Procedures for Opacity Continuous Monitoring Systems" (EPA) 340/1-86-010.

(c) Monitoring data commencing on the clock hour and containing at least forty-five minutes of monitoring data must be reduced to one hour averages. Monitoring data for opacity is to be reduced to six minute block averages unless otherwise specified in the order of approval or permit. All monitoring data will be included in these averages except for data collected during calibration drift tests and cylinder gas audits, and for data collected subsequent to a failed quality assurance test or audit. After a failed quality assurance test or audit, no valid data is collected until the monitoring system passes a quality assurance test or audit.

(d) Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under subsection (a) of this section, all continuous monitoring systems shall be in continuous operation.

(i) Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing

Comment [LJW55]: Update of adoption by reference date.

for each successive ten second period and one cycle of data recording for each successive six minute period.

(ii) Continuous monitoring systems for measuring emissions other than opacity shall complete a minimum of one cycle of sampling, analyzing, and recording for each successive fifteen minute period.

(e) The owner or operator shall retain all monitoring data averages for at least five years, including copies of all reports submitted to the permitting authority and records of all repairs, adjustments, and maintenance performed on the monitoring system.

(f) The owner or operator shall submit a monthly report (or other frequency as directed by terms of an order, air operating permit or regulation) to the permitting authority within thirty days after the end of the month (or other specified reporting period) in which the data were recorded. The report required by this section may be combined with any excess emission report required by WAC 173-400-108. This report shall include:

(i) The number of hours that the monitored emission unit operated each month and the number of valid hours of monitoring data that the monitoring system recovered each month;

(ii) The date, time period, and cause of each failure to meet the data recovery requirements of (a) of this subsection and any actions taken to ensure adequate collection of such data;

(iii) The date, time period, and cause of each failure to recover valid hourly monitoring data for at least 90 percent of

the hours that the equipment (required to be monitored) was operated each day;

(iv) The results of all cylinder gas audits conducted during the month; and

(v) A certification of truth, accuracy, and completeness signed by an authorized representative of the owner or operator.

(9) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-105, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-105, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-105, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-105, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-105, filed 7/21/98, effective 8/21/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-105, filed 9/13/96, effective 10/14/96; 93-18-007 (Order 93-03), § 173-400-105, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-105, filed 2/19/91, effective 3/22/91; 87-20-019 (Order 87-12), § 173-400-105, filed 9/30/87.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-110 New source review (NSR) for sources and portable sources. (1) Applicability.

(a) This section applies statewide except where a permitting authority has adopted regulations equivalent to or no less stringent than the requirements of WAC 173-400-110, 173-400-111, 173-400-112, 173-400-113.

(b) This section applies to new sources and stationary sources as defined in RCW 70.94.030, and WAC 173-400-030, but does not include nonroad engines.

(c) For purposes of this section:

(i) "Establishment" means to begin actual construction;

(ii) "New source" includes:

(A) A modification to an existing stationary source, as "modification" is defined in WAC 173-400-030:

(B) The construction, modification, or relocation of a portable source as defined in WAC 173-400-030, except those relocating in compliance with WAC 173-400-036; and

(C) The establishment of a new or modified toxic air pollutant source, as defined in WAC 173-460-020.

(D) A major modification to an existing major stationary source, as defined in WAC 173-400-710 and WAC 173-400-810.

Comment [LJW56]:

Ecology finds that the current rule construction that has only 400-110 listing of those sections that comprise the minor new source review program, is weak. This standard applicability statement is inserted in four sections.

Comment [LJW57]: New language is required to complete the definition of "new source".

(d) New source review of a modification, including alteration or replacement of control technology as required by WAC 173-400-114, is limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification. Review of a major modification must comply with WAC 173-400-700 through 173-400-750 or 173-400-800 through 173-400-860, as applicable.

Comment [LJW58]:
This new phrase clarifies the limits of the review of an alteration or replacement of control technology.

(e) The procedural requirements pertaining to NOC applications and orders of approval for new sources that are not major stationary sources, as defined in WAC 173-400-710 and WAC 173-400-810,

Comment [LJW59]: New language is required to identify that this covers all major sources.

shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, Model Toxics Control Act, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW using the procedures outlined in WAC 173-340-710(9) or during a department-conducted remedial action, through the procedures outlined in WAC 173-340-710(9).

(2) (~~Approval requirements~~) Required permits. The applicant must evaluate the proposed project and submit an application addressing the requirements of all new source review permits required by this chapter 173-400 WAC.

Comment [LJW60]: The intent of this new header is to state clearly that the topic of this section is "required permits".

(a) A notice of construction application must be filed and an order of approval must be issued by the permitting authority prior to the establishment of any new source except for those new sources or modifications exempt from permitting under subsections (4), (5), and (6) of this section.

(b) If the proposed project is a new major stationary source or a major modification, located in a designated nonattainment area, and if the project emits the air pollutant or precursors of the air pollutant for which the area is designated nonattainment, and the project meets the applicability criteria in WAC 173-400-820, then the project is subject to the permitting requirements of WAC 173-400-800 through 173-400-860.

(c) If the proposed project is a new major stationary source or a major modification that meets the applicability criteria of WAC 173-400-720, then the project is subject to the PSD permitting requirements of WAC 173-400-700 through 173-400-750.

(d) If the proposed project will increase emissions of toxic air pollutants regulated under chapter 173-460 WAC, then the project must meet all applicable requirements of that program.

(3) **Modifications.**

New source review is required for any modification to a stationary source that requires:

(a) An increase in a plant-wide cap; or

(b) An increase in an emission unit or activity specific emission limit. The applicant must consider the criteria in 40 CFR 52.21(r)(4) or WAC 173-400-830(3), as applicable, when determining which new source review permits are required.

Comment [LJW61]:
This new subsection is intended to clarify the regulatory framework for review of modifications.

(4) Emission unit and activity exemptions.

The construction or modification of emission units or an activity in one of the categories listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The construction or modification of an emission unit or an activity exempt under this subsection does not require the filing of a notice of construction application.

(a) Maintenance/construction:

(i) Cleaning and sweeping of streets and paved surfaces;

(ii) Concrete application, and installation;

(iii) Dredging wet spoils handling and placement;

(iv) Paving application and maintenance. This provision does not exempt asphalt plants from this chapter;

(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, house keeping, plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(vi) Plumbing installation, plumbing protective coating application and maintenance activities;

(vii) Roofing application and maintenance;

(viii) Insulation application and maintenance;

(ix) Janitorial services and consumer use of janitorial products;

(x) Construction activities that do not result in new or modified stationary sources or portable stationary sources.

(b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact the permitting authority to determine the exemption status of storage tanks prior to their installation.

(i) Lubricating oil storage tanks. This provision does not exempt wholesale distributors of lubricating oils from this chapter;

(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260-gallon capacity (35 cubic feet);

(vi) Operation, loading and unloading of storage tanks, ~~2~~ 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as listed in chapter 173-460 WAC, max. VP 550 mm mercury at 21°C;

(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

(c) New or modified emission units with combined aggregate heat inputs to combustion units (excluding emergency engines exempted by subsection (4)(h)(xxxix) of this section), less than or equal to all of the following, as applicable:

(i) $\leq 500,000$ Btu/hr using coal with $\leq 0.5\%$ sulfur or other solid fuels with $\leq 0.5\%$ sulfur;

(ii) $\leq 500,000$ Btu/hr using used oil, per the requirements of RCW 70.94.610;

(iii) $\leq 400,000$ Btu/hr using wood waste or paper;

(iv) $\leq 1,000,000$ Btu/hr using gasoline, kerosene, #1, or #2 fuel oil and with $\leq 0.05\%$ sulfur;

(v) $\leq 4,000,000$ Btu/hr using natural gas, propane, or LPG.

(d) Material handling:

(i) Continuous digester chip feeders;

(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;

(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is $\leq 10\%$;

(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one

million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm mercury at 21°C, with lids or other appropriate closure.

(e) Water treatment:

(i) Septic sewer systems, not including active wastewater treatment facilities;

(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

(iv) Process water filtration system and demineralizer vents;

(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

(vi) Demineralizer tanks;

(vii) Alum tanks;

(viii) Clean water condensate tanks.

(f) Environmental chambers and laboratory equipment:

(i) Environmental chambers and humidity chambers using only gases that are not toxic air pollutants listed in chapter 173-460 WAC;

(ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

(iii) Installation or modification of a single laboratory fume hood;

(iv) Laboratory research, experimentation, analysis and testing at sources whose primary purpose and activity is research or education. To be exempt, these sources must not engage in the production of products, or in providing commercial services, for sale or exchange for commercial profit except in a de minimis manner. Pilot-plants or pilot scale processes at these sources are not exempt.

(v) Laboratory calibration and maintenance equipment.

(g) Monitoring/quality assurance/testing:

(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;

(ii) Hydraulic and hydrostatic testing equipment;

(iii) Sample gathering, preparation and management;

(iv) Vents from emission monitors and other analyzers.

(h) Miscellaneous:

(i) Single-family residences and duplexes;

(ii) Plastic pipe welding;

(iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

(iv) Comfort air conditioning;

(v) Flares used to indicate danger to the public;

(vi) Natural and forced air vents and stacks for bathroom/toilet activities;

(vii) Personal care activities;

(viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

- (ix) Tobacco smoking rooms and areas;
- (x) Noncommercial smokehouses;
- (xi) Blacksmith forges for single forges;
- (xii) Vehicle maintenance activities, not including vehicle surface coating;
- (xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);
- (xiv) Wax application;
- (xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- (xvi) Ozone generators and ozonation equipment;
- (xvii) Solar simulators;
- (xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
- (xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- (xx) Pulse capacitors;
- (xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- (xxii) Fire suppression equipment;
- (xxiii) Recovery boiler blow-down tank;
- (xxiv) Screw press vents;
- (xxv) Drop hammers or hydraulic presses for forging or metal working;

(xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

(xxvii) Kraft lime mud storage tanks and process vessels;

(xxviii) Lime grits washers, filters and handling;

(xxix) Lime mud filtrate tanks;

(xxx) Lime mud water;

(xxxix) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

(xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

(xxxiii) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21°C where no toxic air pollutants as listed under chapter 173-460 WAC are emitted;

(xxxiv) Surface coating, aqueous solution or suspension containing $\leq 1\%$ (by weight) VOCs, or $\leq 1\%$ (by weight) toxic air pollutants as listed in chapter 173-460 WAC;

(xxxv) Cleaning and stripping activities and equipment using solutions having $\leq 1\%$ VOCs (by weight) or $\leq 1\%$ (by weight) toxic air pollutants. Acid solutions used on metallic substances are not exempt;

(xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) or $\leq 1\%$ (by weight) toxic air pollutants as listed in chapter 173-460 WAC.

(xxxvii) Abrasive blasting performed inside a booth or hangar designed to capture the blast grit or overspray.

(xxxviii) For structures or items too large to be reasonably handled indoors, abrasive blasting performed outdoors that employs control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps and uses either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.

(xxxix) Stationary emergency internal combustion engines with an aggregate brake horsepower that is less than or equal to 500 brake horsepower.

(xl) Gasoline dispensing facilities with annual gasoline throughputs less than those specified in WAC 173-491-040 (4)(a). Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from toxic air pollutant analysis pursuant to chapter 173-460 WAC.

(5) **Exemptions based on emissions.**

(a) Except as provided in this subsection:

(i) Construction of a new emissions unit that has a potential to emit below each of the levels listed in Table 110(5) Exemption levels is exempt from new source review.

(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in Table 110(5) Exemption levels of this subsection is exempt from new source review.

(b) Greenhouse gas emissions are exempt from new source review requirements except to the extent required under WAC 173-400-720, prevention of significant deterioration. The owner or operator of a source or emission unit, may request that the

permitting authority impose emission limits and/or operation limitations for greenhouse gas in any new source review order of approval.

Table 110(5) Exemption levels:

POLLUTANT	LEVEL (TONS PER YEAR)
Carbon monoxide	5.0
Lead	0.005
Nitrogen oxides	2.0
PM-10	0.75
PM-2.5	0.5
Total suspended particulates	1.25
Sulfur dioxide	2.0
Volatile Organic Compounds, total	2.0
Ozone Depleting Substances, total	1.0
Toxic Air Pollutants	The de minimis emission rate specified for each TAP in WAC 173-460-150.

(6) **Portable source with order of approval.** A portable source is authorized to operate without obtaining a site-specific or a permitting authority specific approval order to relocate if the portable source complies with the provisions of WAC 173-400-036.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-110, filed 3/1/11, effective 4/1/11. Statutory

Authority: Washington Clean Air Act, RCW 70.94.152. 09-11-131 (Order 05-19), § 173-400-110, filed 5/20/09, effective 6/20/09.

Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-110, filed 5/8/07, effective 6/8/07.

Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-110, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-110, filed 8/15/01, effective 9/15/01. Statutory Authority: RCW 70.94.860, 70.94.510 and 70.94.331. 98-15-129 (Order 98-04), § 173-400-110, filed 7/21/98, effective 8/21/98.

Statutory Authority: RCW 70.94.152. 98-01-183 (Order 96-01), § 173-400-110, filed 12/23/97, effective 1/23/98. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-110, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-110, filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-111 Processing notice of construction applications for sources, stationary sources and portable sources.

This section applies statewide except where a permitting authority has adopted regulations equivalent to or no less stringent than the requirements of WAC 173-400-110, 173-400-111, 173-400-112, and 173-400-113.

(1) Completeness determination.

(a) Within thirty days after receiving a notice of construction application, the permitting authority must either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.

(b) A complete application contains all the information necessary for processing the application. At a minimum, the application must provide information on the nature and amounts of emissions to be emitted by the proposed new source as well as the location, design, construction, and operation of the new source as needed to enable the permitting authority to determine that the construction or modification will meet the requirements of WAC 173-400-113. Designating an application complete for purposes of permit processing does not preclude the reviewing

Comment [LJW62]:

The current rule construction that has only 400-110 containing the listing of those sections that comprise the minor new source review program, is weak. This standard applicability statement is inserted in four sections.

authority from requesting or accepting any additional information.

(c) For a project subject to the special protection requirements for federal Class I areas under WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3). The applicant must send a copy of the application and all amendments to the application to the EPA and the responsible federal land manager.

(d) For a project subject to the major new source review requirements in WAC 173-400-800 through 173-400-860, the completeness determination includes a determination that the application includes all information required for review under those sections.

(e) An application is not complete until any permit application fee required by the permitting authority has been paid.

(2) Coordination with chapter 173-401 WAC, operating permit regulation. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under chapter 173-401 WAC and the notice of construction application required by this section. A notice of construction application designated for integrated review must be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must comply with WAC 173-400-171.

(3) Criteria for approval of a notice of construction application. An order of approval cannot be issued until the following criteria are met:

(a) The requirements of WAC 173-400-112;

(b) The requirements of WAC 173-400-113;

(c) The requirements of WAC 173-400-117, as applicable;

(d) The requirements of WAC 173-400-171;

~~((d))~~ (e) The requirements of WAC 173-400-200 and 205;

~~((e))~~ (f) The requirements of WAC 173-400-700 through 173-400-750, as applicable;

(g) The requirements of WAC 173-400-800 through 173-400-860, as applicable; and

~~((f))~~ (h) All fees required under chapter 173-455 WAC (or the applicable new source review fee table of the local air pollution control authority) have been paid.

(4) Final determination - time frame and signature authority.

(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority must either:

(i) Issue a final decision on the application; or

(ii) Initiate notice and comment for those projects subject to WAC 173-400-171 followed as promptly as possible by a final decision.

(b) Every final determination on a notice of construction application must be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the permitting authority.

Comment [LJW63]: The addition of (c) 400-117 and (f) 400-700 to this list does not introduce new requirements. Rather, this addition completes the list of sections that must be considered when a permit is reviewed. The intent of this addition is clear communication about permit requirements.

(5) Distribution of the final decision.

(a) The permitting authority must promptly provide copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

(b) If the new source is a major stationary source or the change is a major modification subject to the requirements of WAC 173-400-800 through 173-400-860, the permitting authority must:

(i) Submit any control technology (LAER) determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA; and

(ii) Send a copy of the final approval order to EPA.

(6) Appeals. Any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided under chapters 43.21B RCW and 371-08 WAC.

(7) Construction time limitations.

(a) Approval to construct or modify a stationary source becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The permitting authority may extend the eighteen-month period upon a

satisfactory showing by the permittee that an extension is justified.

(b) The extension of a project that is either a major stationary source, as defined in WAC 173-400-810, in a nonattainment area or a major modification, as defined in WAC 173-400-810, of a major stationary source in a nonattainment area must also require LAER, for the pollutants for which the area is classified as nonattainment, as LAER exists at the time of the extension for the pollutants that were subject to LAER in the original approval.

(c) This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commence construction date.

(8) Change of conditions or revisions to orders of approval.

(a) The owner or operator may request, at any time, a change in the conditions of an approval order and the permitting authority may approve the request provided the permitting authority finds that:

(i) The change in conditions will not cause the source to exceed an emissions standard set by regulation or rule;

(ii) No ambient air quality standard will be exceeded as a result of the change;

Comment [LJW64]: New language is required to complete the definition”.

Comment [LJW65]: New language is required to complete the definition.

(iii) The change will not adversely impact the ability of the permitting authority to determine compliance with an emissions standard;

(iv) The revised order will continue to require BACT for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

(v) The revised order meets the requirements of WAC 173-400-111, 173-400-112, 173-400-113, 173-400-720, 173-400-830, and 173-460-040, as applicable.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171 or the permitting authority's public notice and comment procedures.

(9) Fees. Chapter 173-455 WAC lists the required fees payable to ecology for various permit actions.

(10) Enforcement. All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-111, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-112 ((~~Requirements for~~)) New sources in nonattainment areas--Review for compliance with regulations.

This section applies statewide except where a permitting authority has adopted regulations equivalent to or no less stringent than the requirements of WAC 173-400-110, 173-400-111, 173-400-112, and 173-400-113.

The permitting authority that is reviewing an application required by WAC 173-400-110(2) to establish a new source in a nonattainment area shall issue the order of approval if it determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new source is major or for which the existing source is major and the modification is

Comment [LJW66]: The existing title does not clearly inform that reader about the contents of this section. The change is intended to better reveal the point of this section.

Comment [LJW67]: We realized that the current rule construction that has only 400-110 containing the listing of those sections that comprise the minor new source review program is weak. A standard applicability statement is inserted in four sections.

Comment [LJW68]: This edit informs the reader where to look for the approval requirements.

significant. (3) The proposed new source will employ BACT for all other air contaminants not subject to LAER.

(4) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with WAC 173-400-113 (3) and (4) for all air contaminants for which the area has not been designated nonattainment.

(5) If the proposal is a new major stationary source of a major modification then it must also comply with WAC 173-400-800 through 860.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-112, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-112, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-112, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-112, filed 8/20/93, effective 9/20/93.]

Comment [LJW69]:

This revision clearly states which sections of the rule are applicable. The existing language leaves the reader guessing where to find the requirements for major sources, major modifications, etc.

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-113 ~~((Requirements for))~~ New sources in attainment or unclassifiable areas--Review for compliance with regulations. This section applies statewide except where a permitting authority has adopted regulations equivalent to or no less stringent than the requirements of WAC 173-400-110, 173-400-111, 173-400-112, and 173-400-113.

The permitting authority that is reviewing an application to establish a new source or modification in an attainment or unclassifiable area shall issue an order of approval if it determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

Comment [LJW70]: The existing title does not clearly inform that reader about the contents of this section. The change is intended to better reveal the point of this section.

Comment [LJW71]: Ecology finds that the current rule construction with only 400-110 listing the sections that comprise the minor new source review program is weak. A standard applicability statement is inserted it in four sections.

(3) Allowable emissions from the proposed new source or modification will not cause or contribute to a violation of any ambient air quality standard.

(4)(a) If the projected impact of the allowable emissions from the proposed new major stationary source (as defined in WAC 173-400-810) or the projected impact of the increase in allowable emissions from the proposed major modification (as defined in WAC 173-400-810) at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment, then the proposed new source or modification will not be considered to cause or contribute to a violation of an ambient air quality standard:

Comment [LJW72]: To comply with the requirements of 40 CFR 51.165(b), the definitions for the terms “major stationary source” and “major modification must be those in WAC 173-400-810. As it is not evident from the context, pointers are added

Table 4a: Cause or Contribute Threshold Values for Nonattainment Area Impacts

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
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
PM _{2.5}	0.3 µg/m ³	1.2 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

(b) A project that results in a projected impact inside a nonattainment area above the appropriate value in Table 4a of this section may use an offsetting emission reduction adequate to reduce the projected impacts to the above values or less. If the proposed project is unable to reduce emissions or obtain offsetting emissions reductions adequate to reduce modeled impacts below the values in Table 4a of this section, then the

permitting authority shall deny approval to construct and operate the proposed new major stationary source or major modification.

(5) ~~((If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, then the source must meet all applicable requirements of that program.))~~ If the proposal is a new major stationary source or a major modification then it must also comply with WAC 173-400-700 through 173-400-750.

Comment [LJW73]: The reference to WAC 173-460 is deleted as this requirement is captured in WAC 173-400-110.

Comment [LJW74]: This cross reference to 700 through 750 is a reminder to the applicant and permitting authority. This is not a new regulatory requirement.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-113, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-113, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-113, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-113, filed 8/20/93, effective 9/20/93.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-115 Standards of performance for new sources.

NSPS. Standards of performance for new sources are called New Source Performance Standards, or NSPS.

(1) **Adoption by reference.**

(a) 40 CFR Part 60 and Appendices in effect on (~~July 1, 2010~~) May 1, 2012, are adopted by reference. Exceptions are listed in (~~subsection (1)(b)~~) (c) of this (~~section~~) subsection.

Comment [LJW75]:
Update of adoption by reference date.

(b) 40 CFR Part 60, as amended by the proposed revisions in 76 Federal Register 80488 - 80530, **Subpart CCCC-Standards of Performance for Commercial and Industrial Solid Waste Incineration Units** (December 23, 2011), is adopted by reference. [FR DOC # 2011-31648]

Comment [LJW76]:
Ecology is adopting by reference a new federal standard.

Note to reader: Should EPA finalize its rules before we finalize this rule making, ecology intends to adopt the final revisions to Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units and 40 CFR 60.17 by reference when finalizing rule making. If EPA does not finalize these revisions before Ecology finalizes these rule revisions, then the draft version of Subpart CCCC will not be adopted into the state rule.

(c) Exceptions to adopting 40 CFR Part 60 by reference.

(i) The term "administrator" in 40 CFR Part 60 includes the permitting authority.

(ii) The following sections and subparts of 40 CFR Part 60 are not adopted by reference:

(A) 40 CFR 60.5 (determination of construction or modification);

(B) 40 CFR 60.6 (review of plans);

(C) 40 CFR Part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, DDDD, FFFF, HHHH (emission guidelines); and

(D) 40 CFR Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

(2) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Part 60, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

Note: Under RCW 80.50.020(14), larger energy facilities subject to subparts D, Da, GG, J, K, Kb, Y, KKK, LLL, and QQQ are regulated by the energy facility site evaluation council (EFSEC).

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-115, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-115, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-115, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-115, filed 8/15/01, effective 9/15/01. Statutory Authority: [RCW 70.94.331, 70.94.510 and chapter 70.94 RCW.] 00-23-130

(Order 98-27), § 173-400-115, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.94.785. 98-22-019 (Order 98-02), § 173-400-115, filed 10/23/98, effective 11/23/98. Statutory Authority: Chapter 70.94 RCW. 96-19-054 (Order 94-35), § 173-400-115, filed 9/13/96, effective 10/14/96; 93-05-044 (Order 92-34), § 173-400-115, filed 2/17/93, effective 3/20/93; 91-05-064 (Order 90-06), § 173-400-115, filed 2/19/91, effective 3/22/91. 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.]

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

WAC 173-400-117 Special protection requirements for federal Class I areas. (1) **Definitions.** The following definitions apply to this section:

(a) **"Adverse impact on visibility"** means visibility impairment that 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 impairment, and how these factors correlate with:

(i) Times of visitor use of the federal Class I area; and

(ii) The frequency and timing of natural conditions that reduce visibility.

(b) The terms "major stationary source," "major modification," and "net emissions increase" are as ~~((provided))~~ defined in WAC 173-400-720 for sources located in areas designated as attainment or unclassifiable for the pollutants proposed to increase as a result of the project and as defined in WAC 173-400-810 for sources located in areas designated as nonattainment for the pollutants proposed to increase as a result of the project.

Comment [LJW77]: The intent of this edit is to clarify how and when to use this definition.

(2) **Applicability.** The requirements of this section apply to all of the following permitting actions:

(a) A PSD permit application for a new major stationary source or a major modification; or

(b) Submittal of a notice of construction application for a major stationary source or a major modification to a stationary source in a nonattainment area, as either of those terms are defined in WAC ~~((173-400-720))~~ 173-400-810.

(3) **Contents and distribution of application.**

(a) The application shall include an analysis of the anticipated impacts of the project on visibility in any federal Class I area.

(b) The applicant must mail a copy of the application for the project and all amendments to the application to the permitting authority, EPA and to the responsible federal land managers. Ecology will provide a list of the names and addresses of the federal land manager.

(4) Notice to federal land manager.

(a) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) If, prior to receiving a notice of construction application or a PSD permit application, the permitting authority receives notice of a project described in subsection (2) of this section that may affect visibility in a federal Class I area, the permitting authority shall notify the responsible federal land manager within thirty days of the notification.

(5) Analysis by federal land manager.

(a) The permitting authority will consider any demonstration presented by the responsible federal land manager that emissions from a proposed new major stationary source or the net emissions increase from a proposed major modification described in subsection (2) of this section would have an adverse impact on visibility in any federal Class I area, provided that the demonstration is received by the permitting

authority within thirty days of the federal land manager's receipt of the complete application.

(b) If the permitting authority concurs with the federal land manager's demonstration, the PSD permit or approval order for the project either shall be denied, or conditions shall be included in the approval order to prevent the adverse impact.

(c) If the permitting authority finds that the federal land manager's analysis does not demonstrate that the project will have an adverse impact on visibility in a federal Class I area, the permitting authority ~~((either))~~ shall explain its decision in compliance with the ((public)) notice ((required by WAC 173-400-730, or, in the case of)) requirements of WAC 173-400-171 for those permits subject to WAC 173-400-800 through 173-400-860. For permits subject to the prevention of significant deterioration program, the permitting authority shall state in the public notice ((of proposed action on a PSD permit application, state)) required by WAC 173-400-740 that an explanation of the decision appears in the Technical Support Document for the proposed permit.

(6) Additional requirements for projects that require a PSD permit.

(a) For sources impacting federal Class I areas, the permitting authority shall provide notice to EPA of every action related to consideration of the PSD permit.

(b) The permitting authority shall consider any demonstration received from the responsible federal land manager prior to the close of the public comment period on a proposed

Comment [LJW78]:
This edit clarifies which public notice provisions are applicable to specific permits.

PSD permit that emissions from the proposed new major stationary source or the net emissions increase from a proposed major modification would have an adverse impact on the air quality-related values (including visibility) of any mandatory Class I federal area.

(c) If the permitting authority concurs with the demonstration, the PSD permit either shall be denied, or conditions shall be included in the PSD permit to prevent the adverse impact.

(7) **Additional requirements for projects located in nonattainment areas.** In reviewing a PSD permit application or notice of construction application for a new major stationary source or major modification proposed for construction in an area classified as nonattainment, the permitting authority must ensure that the source's emissions will be consistent with making reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility by human-caused air pollution in mandatory Class I federal areas. In determining the need for approval order conditions to meet this requirement, the permitting authority may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(8) **Monitoring.** The permitting authority may require post-construction monitoring of the impact from the project. The

monitoring shall be limited to the impacts on visibility in any federal Class I area near the proposed project.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-117, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-117, filed 8/15/01, effective 9/15/01.]

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

WAC 173-400-118 Designation of Class I, II, and III areas.

(1) **Designation.**

(a) Lands within the exterior boundaries of Indian reservations may be proposed for redesignation by an Indian governing body or EPA. This restriction does not apply to nontrust lands within the 1873 Survey Area of the Puyallup Indian Reservation.

(b) All areas of the state must be designated either Class I, II or III.

(i) The following areas are the Class I areas in Washington state:

- (A) Alpine Lakes Wilderness;
- (B) Glacier Peak Wilderness;
- (C) Goat Rocks Wilderness;

- (D) Adams Wilderness;
- (E) Mount Rainier National Park;
- (F) North Cascades National Park;
- (G) Olympic National Park;
- (H) Pasayten Wilderness; and
- (I) Spokane Indian Reservation.¹

(ii) All other areas of the state are Class II, but may be redesignated as provided in subsections (2) and (3) of this section.

¹ EPA redesignated this land based on a request from the Spokane Tribal Council. See 40 CFR 52.2497 and 56 FR 14862, April 12, 1991, for details.

(2) Restrictions on area classifications.

(a) Except for the Spokane Indian Reservation, the Class I areas listed in subsection (1) of this section may not be redesignated.

(b) Except as provided in (a) of this subsection, the following areas that exceed 10,000 acres in size may be redesignated as Class I or II:

(i) Areas in existence on August 7, 1977:

- (A) A national monument;
- (B) A national primitive area;
- (C) A national preserve;
- (D) A national wild and scenic river;
- (E) A national wildlife refuge;
- (F) A national lakeshore or seashore; or
- (G) A national recreation area.

(ii) Areas established after August 7, 1977:

(A) A national park;
(B) A national wilderness area; or
(C) Areas proposed by ecology for designation or redesignation.

(3) Redesignation of area classifications.

(a) Ecology shall propose the redesignation of an area classification as a revision to the SIP.

(b) Ecology may submit to EPA a proposal to redesignate areas of the state as Class I or II if:

(i) Ecology followed the public involvement procedures in WAC 173-400-171(12);

(ii) Ecology explained the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation;

(iii) Ecology made available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation;

(iv) Ecology notified other states, tribal governing bodies, and federal land managers (as defined in 40 CFR 52.21 (b)(24)) whose lands may be affected by the proposed redesignation at least thirty days prior to the public hearing;

(v) Ecology consulted with the elected leadership of local governments in the area covered by the proposed redesignation before proposing the redesignation; and

(vi) Ecology followed these procedures when a redesignation includes any federal lands:

(A) Ecology notified in writing the appropriate federal land manager on the proposed redesignation. Ecology allowed forty-five days for the federal land manager to confer with ecology and to submit written comments.

(B) Ecology responded to any written comments from the federal land manager that were received within forty-five days of notification. Ecology's response was available to the public in advance of the notice of the hearing.

(I) Ecology sent the written comments of the federal land manager, along with ecology's response to those comments, to the public location as required in WAC 173-400-171 (2)(a).

(II) If ecology disagreed with the federal land manager's written comments, ecology published a list of any inconsistency between the redesignation and the comments of the federal land manager, together with the reasons for making the redesignation against the recommendation of the federal land manager.

(c) Ecology may submit to EPA a proposal to redesignate any area other than an area to which subsection (1) of this section applies as Class III if:

(i) The redesignation followed the public involvement requirements of WAC 173-400-171 and 173-400-118(3);

(ii) The redesignation has been specifically approved by the governor of Washington state, after consultation with the appropriate committees of the legislature if it is in session, or with the leadership of the legislature, if it is not in session;

(iii) The redesignation has been approved by local governments representing a majority of the residents of the area to be redesignated. The local governments enacted legislation or passed resolutions concurring in the redesignation;

(iv) The redesignation would not cause, or contribute to, a concentration of any air contaminant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

(v) A PSD permit under WAC 173-400-720 for a new major stationary source or major modification could be issued only if the area in question were redesignated as Class III, and material submitted as part of that application was available for public inspection prior to any public hearing on redesignation of the area as Class III.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-118, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-118, filed 8/15/01, effective 9/15/01.]

Comment [LJW79]: This edit was inserted at the request of EPA. After considering the request, Ecology is not including this edit as it raises more questions than it answers.

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-136 Use of emission reduction credits (ERC).

(1) **Permissible use.** An ERC may be used to:

(a) Satisfy the requirements for authorization of a bubble under WAC 173-400-120;

(b) As an offsetting reduction to satisfy the requirements for new source review in WAC 173-400-830 or 173-400-113(4) ~~((or))~~;

(c) Or if the reduction meets the criteria to be a creditable contemporaneous emission reduction, to demonstrate a creditable contemporaneous emission reduction for ~~((permitting))~~ determining a net emissions increase under WAC 173-400-710 and 173-400-810.

(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 permitting authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.**

(a) An ERC may be used only for the air contaminants for which it was issued.

(b) The permitting authority may impose additional conditions of use to account for temporal and spatial differences between the emissions units that generated the ERC and the emissions units 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

Comment [LJW80]:

This paragraph has been restructured for clarity. The compound sentence is broken into a bulleted list which is easier to read.

Comment [LJW81]:

EPA's nonattainment NSR regulations and the Final Emissions Trading Guidance allow SIPs to include ERC programs and for banked ERC's to be used in nonattainment NSR netting transactions and to provide for emission offsets, the ERC rules and the nonattainment NSR rules must be consistent with each other regarding what reductions are creditable and how such ERC's are used in the netting or offset processes. Ecology's current rules at 173-400-136(1) appear to allow ERC's to be used in a determination of "net emissions increase" and for emission offsets however, several elements of the ERC rules are inconsistent with the requirements of the nonattainment NSR rules with respect to creditable emission reductions as set forth in the definition of "net emissions increase," including the calculation of the quantity of emission reductions and the redemption period (contemporaneous requirement in the nonattainment NSR rules) as well as the baseline for emissions offsets.

Comment [LJW82]:

The general term "permitting" is replaced by more specific language "determining net emissions regulated". The intent of this edit is to clearly communicate what issues are included in the permit review.

authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

(5) **Redemption period.** An unused ERC expires ten years after date of original issue.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard, issued ERCs may be discounted as necessary to reach attainment.

(a) Issued ERCs may be discounted if:

(i) Reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard;

(ii) The ambient standard cannot be met through controls on operating sources; and

(iii) The plan must be revised.

(b) The discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

(c) ERCs may be discounted by the permitting authority only after notice to the public according to WAC 173-400-171 and the owners of affected ERCs.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-136, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-136, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-136, filed 8/15/01, effective 9/15/01. Statutory Authority:

Chapter 70.94 RCW. 93-18-007 (Order 93-03), § 173-400-136, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-136, filed 2/19/91, effective 3/22/91.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-171 Public notice and opportunity for public comment. The purpose of this section is to specify the requirements for notifying the public about air quality ((permit)) actions and to provide opportunities for the public to participate in those ((permit)) actions. This section applies statewide except that the requirements of WAC 173-400-171(1) through (11) do not apply where the permitting authority has adopted its own public notice provisions that are equivalent to or no less stringent than the requirements of WAC 173-400-171(1) through (11).

(1) **Applicability to prevention of significant deterioration, and relocation of portable sources.**

This section does not apply to:

(a) A notice of construction application designated for integrated review with actions regulated by WAC 173-400-720. In such cases, compliance with the public notification requirements of WAC 173-400-740 is required.

(b) Portable source relocation notices as regulated by WAC 173-400-036, relocation of portable sources.

(2) **Internet notice of application.**

Comment [LJW83]:

This sentence is edited to be more general to cover not only permits but also formal state recommendations and SIP actions.

Comment [LJW84]: The intent of this new applicability statement is to reduce the possibility of a local air agency adopting public notice provisions that are less restrictive than Ecology's. Local air agencies are given authority to adopt their own rules by the Clean Air Act, but they are also charged with insuring that those regulations are at least as restrictive as Ecology's rules.

(a) For those applications and actions not subject to a mandatory public comment period per subsection (3) of this section, the permitting authority must post an announcement of the receipt of notice of construction applications and other proposed actions on the permitting authority's internet web site.

(b) The internet posting must remain on the permitting authority's web site for a minimum of fifteen consecutive days.

(c) The internet posting must include a notice of the receipt of the application, the type of proposed action, and a statement that the public may request a public comment period on the proposed action.

(d) Requests for a public comment period must be submitted to the permitting authority in writing via letter, fax, or electronic mail during the fifteen-day internet posting period.

(e) A public comment period must be provided for any application or proposed action that receives such a request. Any application or proposed action for which a public comment period is not requested may be processed without further public involvement at the end of the fifteen-day internet posting period.

(3) Actions subject to a mandatory public comment period.

The permitting authority must provide public notice and a public comment period before approving or denying any of the following types of applications or other actions:

(a) Any application, order, or proposed action for which a public comment period is requested in compliance with subsection (2) of this section.

(b) Any notice of construction application for a new or modified source, including the initial application for operation of a portable source, if there is an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030) or any increase in emissions of a toxic air pollutant above the acceptable source impact levels as regulated under chapter 173-460 WAC; or

(c) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on ~~((July 1, 2010))~~ May 1, 2012) as part of review under WAC 173-400-110, 173-400-113, or 173-400-117; or

(d) Any order to determine reasonably available control technology, RACT; or

(e) An order to establish a compliance schedule issued under WAC 173-400-161, or a variance issued under WAC 173-400-180; or

Note: Mandatory notice is not required for compliance orders issued under WAC 173-400-230.

(f) An order to demonstrate the creditable height of a stack which exceeds the good engineering practice, 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

Comment [LJW85]:
Update of adoption by reference date.

Comment [LJW86]: The 700 series has its own public notice requirements.

(h) Any action to discount the value of an emission reduction credit, ERC, issued to a source per WAC 173-400-136; or

(i) Any regulatory order to establish best available retrofit technology, BART, for an existing stationary facility; or

(j) Any notice of construction application or regulatory order used to establish a creditable emission reduction; or

(k) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit; or

(l) The original issuance and the issuance of all revisions to a general order of approval issued under WAC 173-400-560 (this does not include coverage orders); or

(m) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area; or

(n) Any application or other action for which the permitting authority determines that there is significant public interest.

(4) Advertising the mandatory public comment period.

Public notice of all applications, orders, or actions listed in subsection (3) of this section must be (~~published in a newspaper of general circulation~~) given by prominent advertisement in the area (~~where the source or sources are or will be located~~) affected. This public notice can be (~~published~~) given only after all of the information required by the permitting authority has been submitted and after the

Comment [LJW87]: RCW 70.94 requires Ecology to adopt public notice standards and it is "media neutral". The rule is amended to become media neutral in keeping with the changing market.

applicable preliminary determinations, if any, have been made. The notice must be (~~published~~) given before any of the applications or other actions listed in subsection (3) of this section are approved or denied. The applicant or other initiator of the action must pay the publishing cost of providing public notice.

(5) **Information available for public review.** The information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality, must be available for public inspection in at least one location near the proposed project. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(6) (~~Published~~) **Public notice components.**

(a) The notice must include:

(i) The name and address of the owner or operator and the facility;

(ii) A brief description of the proposal and the type of facility, including a description of the facility's processes subject to the permit;

(iii) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;

(iv) The location where those documents made available for public inspection may be reviewed;

Comment [LJW88]:
The word “published” is narrowly focused on a specific advertising media, newspapers. In its specificity as it does not address all requirements of 40 CFR 50.102.

(v) A thirty-day period for submitting written comment to the permitting authority;

(vi) A statement that a public hearing will be held if the permitting authority determines that there is significant public interest;

(vii) ~~((The time, date and location of the public hearing for those ecology only actions listed in WAC 173-400-171(12));~~

~~(viii))~~ The name, address, and telephone number and e-mail address of a person at the permitting authority from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, and all other materials available to the permitting authority that are relevant to the permit decision, unless the information is exempt from disclosure;

(b) For projects subject to special protection requirements for federal Class I areas, as required by WAC 173-400-117, public notice must include an explanation of the permitting authority's draft decision or state that an explanation of the draft decision appears in the support document for the proposed order of approval(~~+~~ and

~~(c) For a redesignation of an area under WAC 173-400-118, the notice must state that an explanation of the reasons for the proposed redesignation is available for review at the public location)).~~

(7) Length of the public comment period.

Comment [LJW89]: The requirements for Ecology only actions are found in (12). There is no need to repeat those requirements here.

Comment [LJW90]: This is a pointer to the applicable regulatory section. It does not increase the regulatory authority.

Comment [LJW91]: The requirements for Ecology only actions are found in (12). There is no need to repeat those requirements here.

(a) The public comment period must ~~((be))~~ extend at least thirty days ~~((long))~~ prior to any hearing.

(b) If a public hearing is held, the public comment period must extend through the hearing date.

(c) The final decision cannot be issued until the public comment period has ended and any comments received during the public comment period have been considered.

(8) **Requesting a public hearing.** The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. All hearing requests must be submitted to the permitting authority in writing via letter, fax, or electronic mail. A request must indicate the interest of the entity filing it and why a hearing is warranted.

(9) **Setting the hearing date and providing hearing notice.** If the permitting authority determines that significant public interest exists, then it will hold a public hearing. The permitting authority will determine the location, date, and time of the public hearing.

(10) **Notice of public hearing.**

(a) At least thirty days prior to the hearing the permitting authority will provide notice of the hearing as follows:

(i) ~~((Publish the))~~ Give public hearing notice ~~((in a newspaper of general circulation))~~ by prominent advertisement in the area ~~((where the source or sources are or will be located))~~ affected; and

Comment [LJW92]: The intent of this edit is to clarify the comment period by using more precise language.

Comment [LJW93]: The existing wording is narrowly focused on a specific advertising media, newspapers. In its specificity as it does not address all requirements of 40 CFR 50.102.

(ii) Mail the notice of public hearing to ~~((the applicant and to))~~ any person who submitted written comments on the application or requested a public hearing and in the case of a permit action, to the applicant.

Comment [LJW94]:
The sentence is restructured to improve readability.

(b) This notice must include the date, time and location of the public hearing and the information described in subsection (6) of this section.

(c) The applicant must pay all publishing costs associated with meeting the requirements of this subsection.

(11) **Notifying the EPA.** The permitting authority must send a copy of the notice for all actions subject to the mandatory public comment period to the EPA Region 10 regional administrator.

(12) **Special requirements for ecology only actions.**

(a) ~~((Ecology must comply with the requirements of 40 CFR 51.102, in effect on July 1, 2010, on the following ecology only actions:~~

~~(i) A Washington state recommendation to EPA that will be submitted by the director of ecology for approval of a SIP revision including plans for attainment, maintenance, and visibility protection;~~

~~(ii) A Washington state recommendation to EPA for designation, redesignation, or a change of boundaries of an attainment area, or nonattainment area, or an unclassifiable area;~~

~~(iii) A Washington state recommendation to EPA to redesignate Class I, II, or III areas under WAC 173 400 118.~~

~~(b) The notice must comply with subsection (10) of this section.)~~ This subsection applies to ecology only actions including:

(i) A Washington state recommendation to EPA for the designation of an area as attainment, nonattainment or unclassifiable after EPA promulgation of a new or revised ambient air quality standard or for the redesignation of an unclassifiable or attainment area to nonattainment;

(ii) A Washington state submittal of a SIP revision to EPA for approval including plans for attainment and maintenance of ambient air quality standards, plans for visibility protection, requests for revision to the boundaries of attainment and maintenance areas, requests for redesignation of Class I, II, or III areas under WAC 173-400-118, and rules to strengthen the SIP.

(b) Ecology must provide a public hearing or an opportunity for requesting a public hearing on an ecology only action. The notice providing the opportunity for a public hearing must specify the manner and date by which a person may request the public hearing and either provide the date, time and place of the proposed hearing or specify that ecology will publish a notice specifying the date, time and place of the hearing at least thirty days prior to the hearing. When ecology provides the opportunity for requesting a public hearing, the hearing must be held if requested by any person. Ecology may cancel the hearing if no request is received.

Comment [LJW95]: The listing of state only action is expanded to reflect the complete menu of possibilities. These are not newly appointed authorities. The silence of the existing rule language can be misleading.

Comment [LJW96]: This new section details out the requirements imposed by 40 CFR part 51. This change implements a federal standard.

(c) The public notice for ecology only actions must comply with the requirements of 40 CFR 51.102 in effect on May 1, 2012.

(13) **Other requirements of law.** Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-171, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-171, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-171, filed 1/10/05, effective 2/10/05. Statutory Authority: Chapter 70.94 RCW, RCW 70.94.141, [70.94.]152, [70.94.]331, [70.94.]510 and 43.21A.080. 01-17-062 (Order 99-06), § 173-400-171, filed 8/15/01, effective 9/15/01. Statutory Authority: Chapter 70.94 RCW. 95-07-126 (Order 93-40), § 173-400-171, filed 3/22/95, effective 4/22/95; 93-18-007 (Order 93-03), § 173-400-171, filed 8/20/93, effective 9/20/93; 91-05-064 (Order 90-06), § 173-400-171, filed 2/19/91, effective 3/22/91.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-560 General order of approval. In lieu of filing a notice of construction application under WAC 173-400-110, the owner or operator may apply for coverage under a general order of approval issued under this section. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Issuance of general orders of approval.** A permitting authority may issue a general order of approval applicable to a specific type of emission unit or source, not including nonroad engines as defined in section 216 of the Federal Clean Air Act, subject to the conditions in this section. A general order of approval shall identify criteria by which an emission unit or source may qualify for coverage under the associated general order of approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered emission unit or source. At a minimum, these terms and conditions shall include:

(a) Applicable emissions limitations and/or control requirements;

(b) Best available control technology;

(c) Appropriate operational restrictions, such as:

(i) Criteria related to the physical size of the unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria determined by a permitting authority;

(d) Monitoring, reporting and recordkeeping requirements to ensure compliance with the applicable emission limits and control requirements;

(e) Appropriate initial and periodic emission testing requirements;

(f) Compliance with chapter 173-460 WAC, WAC 173-400-112(~~173-400-112~~) and 173-400-113 (~~(3)~~ and ~~(4)~~) as applicable;

(g) Compliance with 40 CFR Parts 60, 61, 62, and 63; and

(h) The application and approval process to obtain coverage under the specific general order of approval.

(2) **Public comment.** Compliance with WAC 173-400-171 is required for a proposed new general order of approval or modification of an existing general order of approval.

(3) **Modification of general orders of approval.** A permitting authority may review and modify a general order of approval at any time. Only the permitting authority that issued a general order of approval may modify that general order of approval. Modifications to general orders of approval shall

Comment [LJW97]: Kasia – we’re sticking with the original language.

follow the procedures of this regulation and shall only take effect prospectively.

(4) Application for coverage under a general order of approval.

(a) In lieu of applying for an individual order of approval under WAC 173-400-110, an owner or operator of an emission unit or source may apply for and receive coverage from a permitting authority under a general order of approval if:

(i) The owner or operator of the emission unit or source applies for coverage under a general order of approval in accordance with this regulation and any conditions of the approval related to application for and granting coverage under the general order of approval;

(ii) The emission unit or source meets all the qualifications listed in the requested general order of approval;

(iii) The requested emission unit or source is not part of a new major stationary source or major modification of a major stationary source subject to the requirements of WAC 173-400-113(3) and (4), (~~173-400-112 or~~) 173-400-700 through 750 or WAC 173-400-800 through 173-400-860; and

(iv) The requested emission unit or source does not trigger applicability of the operating permit program under chapter 173-401 WAC or trigger a required modification of an existing operating permit.

(b) Owners or operators of emission units or sources applying for coverage under a general order of approval shall do

Comment [LJW98]: The additional words are intended to clarify the sentence, not add new regulatory requirements.

Comment [LJW99]: This edit improves the internal consistency of this rule by pointing the reader to the actual regulatory sections, rather than the more general section 112.

Comment [LJW100]: WAC 173-400-720 contains the main criteria that are used to review a PSD permit. The balance of 700 through 750 is mostly process requirements. This language has been changed in the interest of giving a broad reference, rather than a narrow reference, which might imply that other relevant sections do not apply.

so using the forms supplied by a permitting authority and include the required fee. The application must include all information necessary to determine qualification for, and to assure compliance with, a general order of approval.

(c) An application shall be incomplete until a permitting authority has received any required fees.

(d) The owner or operator of a new source or modification of an existing source that qualifies for coverage under a general order of approval may not begin actual construction of the new source or modification until its application for coverage has been approved or accepted under the procedures established in subsection (5) of this section.

(5) **Processing applications for coverage under a general order of approval.** Each general order of approval shall include a section on how an applicant is to request coverage and how the permitting authority will grant coverage. The section of the general order of approval will include either the method in (a) or (b) of this subsection to describe the process for the applicant to be granted coverage.

(a) Within thirty days of receipt of an application for coverage under a general order of approval, the permitting authority shall notify an applicant in writing that the application is incomplete, approved, or denied. If an application is incomplete, the permitting authority shall notify an applicant of the information needed to complete the application. If an application is denied, the permitting authority shall notify an applicant of the reasons why the

application is denied. Coverage under a general order of approval is effective as of the date of issuance of approval by the permitting authority.

(b) The applicant is approved for coverage under the general order of approval thirty-one days after an application for coverage is received by the permitting authority, unless the owner or operator receives a letter from the permitting authority, postmarked within thirty days of when the application for coverage was received by the permitting authority, notifying the owner or operator that the emissions unit or source does not qualify for coverage under the general order of approval. The letter denying coverage shall notify the applicant of the disqualification and the reasons why coverage is denied.

(6) **Termination of coverage under a general order of approval.** An owner or operator who has received approval of an application for coverage under a general order of approval may later request to be excluded from coverage under that general order of approval by applying to the same permitting authority for an individual order of approval, under WAC 173-400-110, or for coverage under another general order of approval. If the same permitting authority issues an individual order of approval or other permit or order serving the same purpose as the original general order of approval, or approves coverage under a different general order of approval, coverage under the original general order of approval is automatically terminated, effective on the effective date of the individual order of approval, order or permit or new general order of approval.

(7) **Failure to qualify or comply.** An owner or operator who requests and is granted approval for coverage under a general order of approval shall be subject to enforcement action for establishment of a new source in violation of WAC 173-400-110 if a decision to grant coverage under a general order of approval was based upon erroneous information submitted by the applicant.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-560, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-560, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 06-03, filed 5/8/07, effective 6/8/07)

WAC 173-400-710 Definitions. (1) (~~The definitions in WAC 173-400-030 are to be used in WAC 173-400-700 through 173-400-750 unless:~~

~~(a) A term is defined differently in WAC 173-400-710 for use in the major source permitting requirements in WAC 173-400-700 through 173-400-750; or~~

~~(b) A term is defined differently in the federal program requirements adopted by reference in WAC 173-400-720.)~~ For purposes of WAC 173-400-720 through 173-400-750 the definitions in 40 CFR 52.21(b), adopted by reference in WAC 173-400-720 (4)(a)(iv), are to be used, except: The definition of

"secondary emissions" as defined in WAC 173-400-030 will be used.

(2) All usage of the term "source" in WAC 173-400-710 through 173-400-750 and in 40 CFR 52.21 as adopted by reference is to be interpreted to mean "stationary source" as defined in 40 CFR 52.21 (b)(5). A stationary source (or source) does not include emissions resulting directly from an internal combustion engine for transportation purposes, from a nonroad engine, or a nonroad vehicle as defined in section 216 of the Federal Clean Air Act.

[Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-710, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-710, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 11-04, filed 8/10/11, effective 9/10/11)

WAC 173-400-720 Prevention of significant deterioration (PSD). (1) No major stationary source or major modification to which the requirements of this section apply is authorized to begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An

Comment [LJW101]:
These edits establish regulatory precedence and address clearly that the definition of secondary emissions in 52.21 does not apply.

opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:

(a) Receive all reports required in the PSD permit;

(b) Enforce the requirement to apply for a PSD permit when one is required; and

(c) Enforce the conditions in the PSD permit.

(4) **Applicable requirements.**

(a) A PSD permit must assure compliance with the following requirements:

(i) WAC 173-400-113 ~~((3) and)~~ (1) through (4).

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

~~((iii) ((The proposed major new source or major modification will comply with all applicable new source performance standards (40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), and emission standards adopted under chapter 70.94 RCW that have been incorporated into the Washington state implementation plan)) WAC 173-400-200;~~

(iv) WAC 173-400-205; and

~~((iv))~~ (v) The following subparts of 40 CFR 52.21, in effect on July 20, 2011, which are adopted by reference. Exceptions are listed in (b)(i), (ii), ~~((and))~~ (iii), and (iv) of this subsection:

Section	Title
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Comment [LJW102]:
This edit corrects a n error from the last rule making. It was a mistake to exclude (2). (1) already existed here as 720(4)(a)(iii).

Comment [LJW103]: The deleted text is in section 400-113(1). Compliance with 400-113 is required in (i) above.

Comment [LJW104]: The inclusion of section 400-200 and 205 improves rule language consistency.

40 CFR 52.21 (a)(2)	Applicability Procedures.
40 CFR 52.21 (b)	Definitions, <u>except the definition of "secondary emissions."</u>
40 CFR 52.21 (c)	Ambient air increments.
40 CFR 52.21 (d)	Ambient air ceilings.
40 CFR 52.21 (h)	Stack heights.
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.
40 CFR 52.21 (j)	Control technology review.
40 CFR 52.21 (k)	Source impact analysis.
40 CFR 52.21 (l)	Air quality models.
40 CFR 52.21 (m)	Air quality analysis.
40 CFR 52.21 (n)	Source information.
40 CFR 52.21 (o)	Additional impact analysis.
40 CFR 52.21 (p)(1) through (4)	Sources impacting federal Class I areas - additional requirements
40 CFR 52.21 (r)	Source obligation.
40 CFR 52.21 (v)	Innovative control technology.
40 CFR 52.21 (w)	Permit rescission.
40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.

Comment [LJW105]:
This is found in section 710. It is repeated here at EPA's request.

(b) Exceptions to adopting 40 CFR 52.21 by reference.

(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:

(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 CFR 52.21 (1)(2), air quality models, "administrator" means the EPA administrator.

(C) In 40 CFR 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(F) In 40 CFR 52.21 (b)(37) related to the definition of repowering, "administrator" means the EPA administrator.

(G) In 40 CFR 52.21 (b)(51) related to the definition of reviewing authority, "administrator" means the EPA administrator.

(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (p) (1) - (4) of this section, paragraph (r) of this section, WAC 173-400-720, and 173-400-730."

(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:

(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 CFR 52.21(c) after the effective date of EPA's incorporation of this section into the Washington state implementation plan, the concentrations listed in WAC 173-400-116(2) are excluded when determining increment consumption.

(D) 40 CFR 52.21 (r)(6)

"The provisions of this paragraph (r)(6) apply with respect to any regulated NSR pollutant from projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a ~~((reasonable possibility that a))~~ project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

- ~~((A))~~ (a) A description of the project;
- ~~((B))~~ (b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
- ~~((C))~~ (c) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the

Comment [LJW106]:
This language is a direct quote from Federal Regulations, but those regulations are out of date. This edit brings this section into compliance with a court decision.

"Reasonable possibility" does not comply with the requirements of 51.165(a)(6) in that it doesn't include the criteria for what is a "reasonable possibility" at 51.165(a)(6)(vi). As required by the court decision, SIP major source rules must specifically define what constitutes a "reasonable possibility" if such criteria are used to determine when information is to be documented, recorded, and/or reported.

projected actual emissions, the amount of emissions excluded under paragraph 40 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) The owner or operator shall submit a copy of the information set out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit (~~of such a unit~~) to obtain any PSD determination from the permitting authority before beginning actual construction.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following

Comment [LJW107]:
The first thought was that this phrase is out of place as the determination may not be for a specific unit. But we have determined that it is better to retain the original federal language.

resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit. (~~For purposes of this paragraph (r)(6)(iii), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of one of the source categories listed in 40 CFR 52.21 (b)(1)(iii) or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories.)~~)

Comment [LJW108]:
EPA requested this deletion to match the current federal language.

(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions(~~(, as monitored pursuant to 40 CFR 52.21 (r)(6)(iii),)~~) during the calendar year that preceded submission of the report.

Comment [LJW109]:
EPA requested this deletion to match the current federal language.

(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for

that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:

- (a) The name, address and telephone number of the major stationary source;
- (b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and
- (c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection)."

(E) 40 CFR 52.21 (r)(7) "The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii)."

(F) 40 CFR 52.21 (aa)(2)(ix) "PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or regulatory order issued under WAC 173-400-091

Comment [LJW110]: The quotes are added to improve the rule structure. All of these sections contain text that replaces the federal text.

issued by ecology that establishes a PAL for a major stationary source."

(G) 40 CFR 52.21 (aa)(5) "Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740."

(H) 40 CFR 52.21 (aa)(9)(i)(b) "Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate."

(I) 40 CFR 52.21 (aa)(14) "Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii)."

(J) 40 CFR 52.21 (aa)(14)(ii) "Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The

reports shall contain the information found at WAC 173-401-615(3)."

(iv) 40 CFR 52.21 (r)(2) is not adopted by reference.

[Statutory Authority: Chapter 70.94 RCW. 11-17-037 (Order 11-04), § 173-400-720, filed 8/10/11, effective 9/10/11; 11-06-060 (Order 09-01), § 173-400-720, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. 07-11-039 (Order 06-03), § 173-400-720, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-720, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-730 Prevention of significant deterioration application processing procedures. (1) Application submittal.

(a) The applicant shall submit an application that provides complete information necessary for ecology to determine compliance with all PSD program requirements.

(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the following manner:

(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

(ii) One copy to each of the following federal land managers:

(A) U.S. Department of the Interior - National Park Service; and

(B) U.S. Department of Agriculture - U.S. Forest Service.

(iii) One copy to the permitting authority with authority over the source under chapter 173-401 WAC.

(iv) One copy to EPA.

(c) Application submittal and processing for the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa) shall be done as provided in 40 CFR 52.21(aa)(3) - (5), which is adopted by reference in WAC 173-400-720 (4)(a)(iv), except public participation must comply with WAC 173-400-720 (4)(b)(iii)(F).

(2) **Application processing.**

(a) Completeness determination.

(i) Within thirty days after receiving a PSD permit application, ecology shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Ecology may request additional information clarifying aspects of the application after it has been determined to be complete.

(ii) The effective date of the application is the date on which ecology notifies the applicant that the application is complete pursuant to (a)(i) of this subsection.

(iii) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement action taken.

(iv) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) Preparation and issuance of the preliminary determination.

(i) When the application has been determined to be complete, ecology shall begin developing the preliminary determination to approve or deny the application.

(ii) (~~Within one year~~) As expeditiously as possible after receipt of a complete application, ecology shall provide the applicant with a preliminary determination along with a technical support document and a public notice.

(c) Issuance of the final determination.

(i) Ecology shall make no final decision until the public comment period has ended and all comments received during the public comment period have been considered.

(ii) Within one year of the date of receipt of the complete application and as expeditiously as possible after the close of the public comment period, or hearing if one is held, ecology shall prepare and issue the final determination.

(d) Once the PSD program set forth in WAC 173-400-700 through 173-400-750 is incorporated into the Washington SIP, the effective date of a determination will be either the date of

Comment [LJW111]:
The edits to (2)(b)(ii) and (c)(ii) address EPAs concern with the timeframes of the listed process. The processing timelines are derived from EPA's permit processing regulation.

Comment [LJW112]: This change is required to meet the federal timeliness requirement in 40 CFR 51.166(q).

issuance of the final determination, or a later date if specified in the final determination.

Until the PSD program set forth in WAC 173-400-700 through 173-400-750 is incorporated into the Washington SIP, the effective date of a final determination is one of the following dates:

(i) If no comments on the preliminary determination were received, the date of issuance; or

(ii) If comments were received, thirty days after receipt of the final determination; or

(iii) A later date as specified within the PSD permit approval.

(3) **PSD technical support document.** Ecology shall develop a technical support document for each preliminary PSD determination. The preliminary technical support document will be updated prior to issuance of the final determination to reflect changes to the final determination based on comments received. The technical support document shall include the following information:

(a) A brief description of the major stationary source, major modification, or activity subject to review;

(b) The physical location, ownership, products and processes involved in the major stationary source or major modification subject to review;

(c) The type and quantity of pollutants proposed to be emitted into the air;

(d) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;

(e) A brief summary of the basis for the permit approval conditions;

(f) A statement on whether the emissions will or will not cause a state and national ambient air quality standard to be exceeded;

(g) The degree of increment consumption expected to result from the source or modification;

(h) An analysis of the impacts on air quality related values in federal Class I areas and other Class I areas affected by the project; and

(i) An analysis of the impacts of the proposed emissions on visibility in any federal Class I area following the requirements in WAC 173-400-117.

(4) **Appeals.** A PSD permit, any conditions contained in a PSD permit, or the denial of PSD permit may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. A PSD permit issued under the terms of a delegation agreement can be appealed to the EPA's environmental appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

(5) **Construction time limitations.**

(a) Approval to construct or modify a major stationary source becomes invalid if construction is not commenced within eighteen months of the effective date of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable

time. The time period between construction of the approved phases of a phased construction project cannot be extended. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(b) Ecology may extend the eighteen-month effective period of a PSD permit upon a satisfactory showing that an extension is justified. A request to extend the effective time to begin or complete actual construction under a PSD permit may be submitted. The request may result from the cessation of on-site construction before completion or failure to begin actual construction of the project(s) covered by the PSD permit.

(i) Request requirements.

(A) A written request for the extension, submitted by the PSD permit holder, as soon as possible prior to the expiration of the current PSD permit.

(B) An evaluation of BACT and an updated ambient impact, including an increment analysis, for all pollutants subject to the approval conditions in the PSD permit.

(ii) Duration of extensions.

(A) No single extension of time shall be longer than eighteen months.

(B) The cumulative time prior to beginning actual construction under the original PSD permit and all approved time extensions shall not exceed fifty-four months.

(iii) Issuance of an extension.

(A) Ecology may approve and issue an extension of the current PSD permit.

(B) The extension of approval shall reflect any revised BACT limitations based on the evaluation of BACT presented in the request for extension and other information available to ecology.

(C) The issuance of an extension is subject to the public involvement requirements in WAC 173-400-740.

(iv) For the extension of a PSD permit, ecology must prepare a technical support document consistent with WAC 173-400-730(3) only to the extent that those criteria apply to a request to extend the construction time limitation.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-730, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-730, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 03-07, filed 1/10/05, effective 2/10/05)

WAC 173-400-740 PSD permitting public involvement requirements. (1) Actions requiring notification of the public. Ecology must provide public notice before approving or denying any of the following types of actions related to implementation of the PSD program contained in WAC 173-400-720:

(a) Any preliminary determination to approve or disapprove a PSD permit application; or

(b) An extension of the time to begin construction or suspend construction under a PSD permit; or

(c) A revision to a PSD permit, except an administrative amendment to an existing permit; or

(d) Use of a modified or substituted model in Appendix W of 40 CFR Part 51 (as in effect on May 1, 2012) as part of review of air quality impacts.

(2) **Notification of the public.** (~~Within one year of~~) **As** expeditiously as possible after the receipt of a complete PSD application, and as expeditiously as possible after receipt of a request for extension of the construction time limit under WAC 173-400-730(6) or after receipt of a nonadministrative revision to a PSD permit under WAC 173-400-750, ecology shall:

(a) Make available for public inspection in at least one location in the vicinity where the proposed source would be constructed, or for revisions to a PSD permit where the permittee exists, a copy of the information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality and air quality related values, considered in making the preliminary determination. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(b) Notify the public by:

(i) Causing to be published, in a newspaper of general circulation in the area of the proposed project, the public

Comment [LJW113]:
This edit is made in response to EPAs concern with the timeframes of the listed process. The processing timelines are derived from EPA's permit processing regulation.
This text implements EPA's comment that 51.166(q) requires a final determination in 12 months after the receipt of a complete application.

notice prepared in accordance with WAC 173-400-730(4). The date the public notice is published in the newspaper starts the required thirty-day comment period.

(ii) If ecology grants a request to extend the public comment period, the extension notice must also be published in a newspaper as noted above and a copy of the extension notice sent to the organizations and individuals listed in (c) and (d) of this subsection. The closing date of the extended comment period shall be as defined in the public comment period extension notification.

(iii) If a hearing is held, the public comment period must extend through the hearing date.

(iv) The applicant or other initiator of the action must pay the cost of providing public notice.

(c) Send a copy of the public notice to:

(i) Any Indian governing body whose lands may be affected by emissions from the project;

(ii) The chief executive of the city where the project is located;

(iii) The chief executive of the county where the project is located;

(iv) Individuals or organizations that requested notification of the specific project proposal;

(v) Other individuals who requested notification of PSD permits;

(vi) Any state within 100 km of the proposed project.

(d) Send a copy of the public notice, PSD preliminary determination, and the technical support document to:

(i) The applicant;

(ii) The affected federal land manager;

(iii) EPA Region 10;

(iv) The permitting authority with authority over the source under chapter 173-401 WAC;

(v) Individuals or organizations who request a copy; and

(vi) The location for public inspection of material required under (a) of this subsection.

(3) **Public notice content.** The public notice shall contain at least the following information:

(a) The name and address of the applicant;

(b) The location of the proposed project;

(c) A brief description of the project proposal;

(d) The preliminary determination to approve or disapprove the application;

(e) How much increment is expected to be consumed by this project;

(f) The name, address, and telephone number of the person to contact for further information;

(g) A brief explanation of how to comment on the project;

(h) An explanation on how to request a public hearing;

(i) The location of the documents made available for public inspection;

(j) There is a thirty-day period from the date of publication of the notice for submitting written comment to ecology;

(k) A statement that a public hearing may be held if ecology determines within a thirty-day period that significant public interest exists;

(l) The length of the public comment period in the event of a public hearing;

(m) For projects subject to special protection requirements for federal Class I areas, in WAC 173-400-117, and where ecology disagrees with the analysis done by the federal land manager, ecology shall explain its decision in the public notice or state that an explanation of the decision appears in the technical support document for the proposed approval or denial.

(4) Public hearings.

(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. Whether a request for a hearing is filed or not, ecology may hold a public hearing if it determines significant public interest exists. Ecology will determine the location, date, and time of the public hearing.

(b) Notification of a public hearing will be accomplished per the requirements of WAC 173-400-740(2).

(c) The public must be notified at least thirty days prior to the date of the hearing (or first of a series of hearings).

(5) **Consideration of public comments.** Ecology shall make no final decision on any application or action of any type described in subsection (1) of this section until the public comment period has ended and any comments received during the public comment period have been considered. Ecology shall make all public comments available for public inspection at the same locations where the preconstruction information on the proposed major source or major modification was made available.

(6) **Issuance of a final determination.**

(a) The final approval or disapproval determination must be made within one year of receipt of a complete application and must include the following:

(i) A copy of the final PSD permit or the determination to deny the permit;

(ii) A summary of the comments received;

(iii) Ecology's response to those comments;

(iv) A description of what approval conditions changed from the preliminary determination; and

(v) A cover letter that includes an explanation of how the final determination may be appealed.

(b) Ecology shall mail a copy of the cover letter that accompanies the final determination to:

(i) Individuals or organizations that requested notification of the specific project proposal;

(ii) Other individuals who requested notification of PSD permits.

(c) A copy of the final determination shall be sent to:

- (i) The applicant;
- (ii) U.S. Department of the Interior - National Park Service;
- (iii) U.S. Department of Agriculture - Forest Service;
- (iv) EPA Region 10;
- (v) The permitting authority with authority over the source under chapter 173-401 WAC;
- (vi) Any person who commented on the preliminary determination; and
- (vii) The location for public inspection of material required under subsection (2)(a) of this section.

[Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-740, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-750 Revisions to PSD permits. (1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:

(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;

(b) No ambient air quality standard or PSD increment will be exceeded as a result of the change;

(c) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;

(d) The revised PSD permit will continue to require BACT for each new or modified emission unit approved by the original PSD permit; and

(e) The revised PSD permit continues to meet the requirements of WAC (~~(173-400-112)~~) 173-400-800 through 173-400-860, and 173-400-113 (~~((3) and (4))~~), as applicable.

(2) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in chapter 173-455 WAC also applies.

(3) All revisions to PSD permits are subject to public involvement except for the following administrative revisions:

(a) Change of the owner or operator's business name and/or mailing address;

(b) Corrections to typographical errors;

(c) Revisions to compliance monitoring methods that provide for more frequent monitoring, replace a periodic monitoring requirement with a continuous monitoring, result in replacement of a manual emission testing method with an instrumental method, or other similar changes that based on ecology's technical evaluation of the proposal, do not reduce the ability of the permittee, the permitting authority, EPA, or ecology to determine compliance with the emission limitations;

(d) Revisions to reporting requirements contained in a PSD permit to coordinate reporting with reporting requirements

Comment [LJW114]:
This edit reflects rule structure changes that were made in AO #09-01.

Comment [LJW115]:
This additional text in (c) and (d) and (e) informs the reader that the decision is a technical evaluation made by Ecology. It adds some criteria to these tests.

contained in the air operating permit issued to the source or that result in more frequent reporting by the permittee; or (e) Any other revision, similar to those listed above, that based on ecology's technical evaluation of the proposal, does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-750, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.152. 05-03-033 (Order 03-07), § 173-400-750, filed 1/10/05, effective 2/10/05.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-810 Major stationary source and major modification definitions. (~~The definitions in WAC 173-400-030 are to be used in WAC 173-400-800 through 173-400-860 unless a term is defined differently in this section.~~) The definitions in this section must be used in the major stationary source nonattainment area permitting requirements in WAC 173-400-800 through 173-400-860. If a term is defined differently in the federal program requirements for issuance, renewal and expiration of a Plant Wide Applicability Limit which are adopted by reference in WAC 173-400-850, then that definition is to be used for purposes of the Plant Wide Applicability Limit program.

(1) Actual emissions means:

(a) The actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with (b) through (d) of this subsection. This definition does not apply when calculating whether a significant emissions increase has occurred, or for establishing a PAL under WAC 173-400-850. Instead, "projected actual emissions" and "baseline actual emissions" as defined in subsections (2) and (23) of this section apply for those purposes.

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the

Comment [LJW116]:
The intent of this edit is improve rule consistency. Rather than repeating or paraphrasing the 400-030 language, this sentence is deleted.

unit actually emitted the pollutant during a consecutive twenty-four-month period which precedes the particular date and which is representative of normal source operation. The permitting authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. 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.

(c) The permitting authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) Baseline actual emissions means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with (a) through (d) of this subsection.

(a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive twenty-four-month period selected by the owner or operator within the five-year period immediately preceding when the owner or operator begins actual construction of the project. The permitting authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, the average rate shall include fugitive emissions (to the extent quantifiable).

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive twenty-four-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by (a)(ii) of this subsection.

(b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-

four-month period selected by the owner or operator within the ten-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the permitting authority for a permit required either under WAC 173-400-800 through 173-400-860 or under a plan approved by the administrator, whichever is earlier, except that the ten-year period shall not include any period earlier than November 15, 1990.

(i) The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, the average rate shall include fugitive emissions (to the extent quantifiable).

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive twenty-four-month period. However, if an emission limitation is part of a maximum

achievable control technology standard that the administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan as part of the demonstration of attainment or as reasonable further progress to attain the NAAQS.

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive twenty-four-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive twenty-four-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required under (b)(ii) and (iii) of this subsection.

(c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit. In the latter case, fugitive emissions, to the extent quantifiable, shall be included only if the emissions unit is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or if the emissions unit

is located at a major stationary source that belongs to one of the listed source categories.

(d) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in (a) of this subsection, for other existing emissions units in accordance with the procedures contained in (b) of this subsection, and for a new emissions unit in accordance with the procedures contained in (c) of this subsection, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

(3) Building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

(4) Clean coal technology means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will

achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(5) Clean coal technology demonstration project means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of two and one-half billion dollars for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least twenty percent of the total cost of the demonstration project.

(6) Construction means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

(7) Continuous emissions monitoring system (CEMS) means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(8) Continuous parameter monitoring system (CPMS) means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂

concentrations), and to record average operational parameter value(s) on a continuous basis.

(9) Continuous emissions rate monitoring system (CERMS) means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(10) Electric utility steam generating unit means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(11) Emissions unit means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric steam generating unit. For purposes of this section, there are two types of emissions units:

(a) A new emissions unit is any emissions unit which is (or will be) newly constructed and which has existed for less than two years from the date such emissions unit first operated.

(b) An existing emissions unit is any emissions unit that is not a new emissions unit. A replacement unit, as defined in subsection (25) of this section is an existing emissions unit.

(12) Fugitive emissions means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. Fugitive emissions, to the extent quantifiable, are addressed as follows for the purposes of this section:

(a) In determining whether a stationary source or modification is major, fugitive emissions from an emissions unit are included only if the emissions unit is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or the emissions unit is located at a stationary source that belongs to one of those source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source and that are not, by themselves, part of a listed source category.

(b) For purposes of determining the net emissions increase associated with a project, an increase or decrease in fugitive emissions is creditable only if it occurs at an emissions unit that is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or if the emission unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source

categories listed in subsection (14)(e) of this section, the definition of major stationary source, and that are not, by themselves, part of a listed source category.

(c) For purposes of determining the projected actual emissions of an emissions unit after a project, fugitive emissions are included only if the emissions unit is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or if the emission unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, and that are not, by themselves, part of a listed source category.

(d) For purposes of determining the baseline actual emissions of an emissions unit, fugitive emissions are included only if the emissions unit is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or if the emission unit is located at a major stationary source that belongs to one of the listed source categories, except that, for a PAL, fugitive emissions shall be included regardless of the source category. With the exception of PALs, fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in subsection (14)(e) of this section, the definition of

major stationary source, and that are not, by themselves, part of a listed source category.

(e) In calculating whether a project will cause a significant emissions increase, fugitive emissions are included only for those emissions units that are part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or for any emissions units that are located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, and that are not, by themselves, part of a listed source category.

(f) For purposes of monitoring and reporting emissions from a project after normal operations have been resumed, fugitive emissions are included only for those emissions units that are part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or for any emissions units that are located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, and that are not, by themselves, part of a listed source category.

(g) For all other purposes of this section, fugitive emissions are treated in the same manner as other, nonfugitive emissions. This includes, but is not limited to, the treatment of fugitive emissions for offsets (see WAC 173-400-840(7)) and for PALs (see WAC 173-400-850).

(13) Lowest achievable emission rate (LAER) means, for any source, the more stringent rate of emissions based on the following:

(a) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(b) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

(14)(a) Major stationary source means any stationary source of air pollutants that emits, or has the potential to emit, one hundred tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds apply in areas subject to sections 181-185B, sections 186 and 187, or sections 188-190 of

the Federal Clean Air Act. In those areas the following thresholds apply:

(i) Fifty tons per year of volatile organic compounds in any serious ozone nonattainment area;

(ii) Fifty tons per year of volatile organic compounds in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area;

(iii) Twenty-five tons per year of volatile organic compounds in any severe ozone nonattainment area;

(iv) Ten tons per year of volatile organic compounds in any extreme ozone nonattainment area;

(v) Fifty tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the administrator);

(vi) Seventy tons per year of PM-10 in any serious nonattainment area for PM-10.

(b) For the purposes of applying the requirements of WAC 173-400-830 to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, one hundred tons per year or more of nitrogen oxides emissions, except that the emission thresholds in (b)(i) through (vi) of this subsection shall apply in areas subject to sections 181-185B of the Federal Clean Air Act.

(i) One hundred tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.

(ii) One hundred tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.

(iii) One hundred tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Federal Clean Air Act as attainment or unclassifiable for ozone that is located in an ozone transport region.

(iv) Fifty tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.

(v) Twenty-five tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.

(vi) Ten tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone.

(c) Any physical change that would occur at a stationary source not qualifying under (a) and (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.

(d) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(e) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of subsection (14) of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than fifty tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and

(xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the act.

(15)(a) Major modification means any physical change in or change in the method of operation of a major stationary source that would result in:

(i) A significant emissions increase of a regulated NSR pollutant; and

(ii) A significant net emissions increase of that pollutant from the major stationary source.

(b) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

(c) A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the 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;

(iii) Use of an alternative fuel by reason of an order or rule section 125 of the Federal Clean Air Act;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

(A) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or section 51.166; or

(B) The source is approved to use under any permit issued under regulations approved by the administrator implementing 40 CFR 51.165.

(vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166;

(vii) Any change in ownership at a stationary source;

(viii) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The state implementation plan for the state in which the project is located; and

(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

(d) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements for a PAL for that pollutant. Instead, the definitions in 40 CFR Part 51, Appendix S adopted by reference in WAC 173-400-850 shall apply.

(e) For the purpose of applying the requirements of WAC 173-400-830 (1)(i) to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to sections 181-185B, Part D, Title I of the Federal Clean Air Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.

(f) Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to sections 181-185B, Part D, Title I of the Federal Clean Air Act.

(g) Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source.

(16) Necessary preconstruction approvals or permits means those permits or orders of approval required under federal air quality control laws and regulations or under air quality control laws and regulations which are part of the applicable state implementation plan.

(17)(a) Net emissions increase means with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(i) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to WAC 173-400-820 (2) and (3); and

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. In determining the net emissions increase, baseline actual emissions for calculating increases and decreases shall be determined as provided in the definition of baseline actual emissions, except that subsection (2)(a)(iii) and (b)(iv) of this section, in the definition of baseline actual emissions, shall not apply.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs;

(c) An increase or decrease in actual emissions is creditable only if:

(i) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit (ERC). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC; and

(ii) The permitting authority has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in actual emissions from the particular change occurs; and

(iii) As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one

of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, and that are not, by themselves, part of a listed source category.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level;

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emission or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii) The permitting authority has not relied on it as part of an offsetting transaction under WAC 173-400-113(4) or 173-400-830 or in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I or the state has not relied on it in demonstrating attainment or reasonable further progress;

(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant.

(g) Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(h) Subsection (1)(b) of this section, in the definition of actual emissions, shall not apply for determining creditable increases and decreases or after a change.

(18) Nonattainment major new source review (NSR) program means the major source preconstruction permit program that has been approved by the administrator and incorporated into the plan to implement the requirements of 40 CFR 51.165, or a program that implements 40 CFR Part 51 Appendix S, sections I through VI. Any permit issued under either program is a major NSR permit.

(19) Pollution prevention means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

(20) Predictive emissions monitoring system (PEMS) means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and

calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(21) Prevention of significant deterioration (PSD) permit means any permit that is issued under the major source preconstruction permit program that has been approved by the administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or under the program in 40 CFR 52.21.

(22) Project means a physical change in, or change in the method of operation of, an existing major stationary source.

(23)(a) Projected actual emissions means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (twelve-month period) following the date the unit resumes regular operation after the project, or in any one of the ten years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(b) In determining the projected actual emissions before beginning actual construction, the owner or operator of the major stationary source:

(i) Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and

the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan; and

(ii) Shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source, or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable); and

(iii) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(iv) In lieu of using the method set out in (b) of this subsection, the owner or operator may elect to use the emissions unit's potential to emit, in tons per year. For this purpose, if the emissions unit is part of one of the source categories listed in subsection (14)(e) of this section, the definition of major stationary source or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories, the unit's potential to emit shall include fugitive emissions (to the extent quantifiable).

(24)(a) Regulated NSR pollutant, means the following:

(i) Nitrogen oxides or any volatile organic compounds;

(ii) Any pollutant for which a National Ambient Air Quality Standard has been promulgated;

(iii) Any pollutant that is identified under this subsection as a constituent or precursor of a general pollutant listed in (a)(i) or (ii) of this subsection, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. For purposes of NSR precursor pollutants are the following:

(A) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(B) Sulfur dioxide is a precursor to PM-2.5 in all PM-2.5 nonattainment areas.

(C) Nitrogen oxides are precursors to PM-2.5 in all PM-2.5 nonattainment areas.

(b) PM-2.5 emissions and PM-10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming EPA (~~rulemaking~~) rule making codifying emission test methods for condensable particulate matter), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM-2.5 in nonattainment major NSR permits. Compliance with emissions limitations for PM-2.5 issued prior to this date shall not be based on condensable particulate matter unless required

by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations for PM-2.5 made prior to the effective date of WAC 173-400-800 through 173-400-850 made without accounting for condensable particulate matter shall not be considered in violation of WAC 173-400-800 through 173-400-850.

(25)(a) Replacement unit means an emissions unit for which all the criteria listed below are met:

(i) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15 (b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement does not alter the basic design parameters of the process unit. Basic design parameters are:

(A) Except as provided in (a)(iii)(C) of this subsection, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British thermal units content must be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(B) Except as provided in (a)(iii)(C) of this subsection, the basic design parameter(s) for any process unit that is not

at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material of the process unit when selecting a basic design parameter.

(C) If the owner or operator believes the basic design parameter(s) in (a)(iii)(A) and (B) of this subsection is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the reviewing authority an alternative basic design parameter(s) for the source's process unit(s). If the reviewing authority approves of the use of an alternative basic design parameter(s), the reviewing authority will issue a new permit or modify an existing permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(D) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in (a)(iii)(A) and (B) of this subsection.

(E) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value

achieved by the process unit in the five-year period immediately preceding the planned activity.

(F) Efficiency of a process unit is not a basic design parameter.

(iv) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(b) No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(26) Reviewing authority means "permitting authority" as defined in WAC 173-400-030.

(27) Significant means:

(a) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tons per year
Sulfur dioxide	40 tons per year
Ozone	40 tons per year of volatile organic compounds or nitrogen oxides
Lead	0.6 tons per year
PM-10	15 tons per year

PM-2.5	10 tons per year of direct PM-2.5 emissions; 40 tons per year of nitrogen oxide emissions; 40 tons per year of sulfur dioxide emissions
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(b) Notwithstanding the significant emissions rate for ozone, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe ozone nonattainment area that is subject to sections 181-185B, of the Federal Clean Air Act, if such emissions increase of volatile organic compounds exceeds twenty-five tons per year.

(c) For the purposes of applying the requirements of WAC 173-400-830 (1)(i) to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for volatile organic compounds in (a), (b), and (e) of this subsection, of the definition of significant, shall apply to nitrogen oxides emissions.

(d) Notwithstanding the significant emissions rate for carbon monoxide under (a) of this subsection, the definition of significant, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious nonattainment area for carbon monoxide if such increase equals or exceeds fifty tons per year,

provided the administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.

(e) Notwithstanding the significant emissions rates for ozone under (a) and (b) of this subsection, the definition of significant, any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone nonattainment area that is subject to sections 181-185B of the Federal Clean Air Act shall be considered a significant net emissions increase.

(28) Significant emissions increase means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

(29) Source (~~means "stationary source" as defined in WAC 173-400-030~~) and stationary source means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(30) Temporary clean coal technology demonstration project means a clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the state implementation plan for the state in which the project is located and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(31) Best available control technology (BACT) means an emissions limitation (including a visible emissions standard)

Comment [LJW117]: The definition of source is reworded to include "stationary source" as requested by EPA for consistency.

based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines if it is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

Comment [LJW118]: The definition of BACT from 40 CFR 51.165 is added at EPA's request. There are now two different definitions of BACT in the rule.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-810, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-820 Determining if a new stationary source or modification to a stationary source is subject to these requirements. (1) Any new major stationary source located anywhere in a nonattainment area designated under section 107 (d)(1)(A)(i) of the Federal Clean Air Act, that is major for the pollutant for which the area is designated nonattainment (~~, if the stationary source or modification would locate anywhere in the designated nonattainment under section 107 (d)(1)(A)(i) of the Federal Clean Air Act area shall~~) is subject to the permitting requirements of WAC 173-400-830 through 173-400-850. Any major modification of an existing major stationary source that is major for the pollutant for which the area is designated nonattainment and is located anywhere in a nonattainment area designated under section 107 (d)(1)(A)(i) of the Federal Clean Air Act, and that has a significant net emissions increase of the pollutant for which the area is designated nonattainment is subject to the permitting requirements of WAC 173-400-830 through 173-400-850. A modification to an existing major stationary source must use the following procedures to determine if the modification would result in a significant net emissions increase of the nonattainment pollutant.

(2) Except as otherwise provided in subsection (4) of this section, and consistent with the definition of major modification, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases - A significant emissions increase, and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

Comment [LJW119]: Edit inserted to improve sentence readability.

(3) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to (a) through (c) of this subsection. For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit is part of one of the source categories listed in the definition of major stationary source contained in WAC 173-400-810 (14)(e) or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in the definition of major stationary source contained in WAC 173-400-810 (14)(e) and that are not, by themselves, part of a listed source category. The procedure for calculating (before beginning actual construction) whether a significant net

emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition of net emission increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(a) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.

(b) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

(c) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in (a) and (b) of this subsection as applicable with

respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

(4) Any major stationary source which has a PAL for a regulated NSR pollutant shall comply with requirements in WAC 173-400-850.

(5) The following specific provisions apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where ((~~there is a reasonable possibility that~~)) a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in the definition of projected actual emissions contained in WAC 173-400-810 (23)(b)(i) through (iii) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document, and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under the definition of projected actual

Comment [LJW120]:
The edits deleting “reasonable possibility” increase the rule consistency. The structure parallels that edit made in 400-720 (which is located on or near page 131 of this document.)

emissions contained in WAC 173-400-810 (23)(b)(iii) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) Before beginning actual construction, the owner or operator shall provide a copy of the information set out in (a) of this subsection to the permitting authority. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the permitting authority before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in (a)(ii) of this subsection; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. ~~((For purposes of this subsection (c), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of one of the source categories listed in the definition of major stationary source contained in WAC 173-400-810 (14)(c) or if the emissions unit is located at a major~~

~~stationary source that belongs to one of the listed source categories.))~~

Comment [LJW121]:

This edit is made in response to a request from EPA to match current federal language.

(d) The owner or operator shall submit a report to the permitting authority within sixty days after the end of each year during which records must be generated under (c) of this subsection setting out the unit's annual emissions, as monitored pursuant to (c) of this subsection, during the year that preceded submission of the report.

(e) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in (a) of this subsection, exceed the baseline actual emissions (as documented and maintained pursuant to (a)(iii) of this subsection), by a significant amount (as defined in the definition of significant) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to (a)(iii) of this subsection. Such report shall be submitted to the permitting authority within sixty days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to (d) of this subsection; and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(6) For projects not required to submit the above information to the permitting authority as part of a notice of construction application, the owner or operator of the source shall make the information required to be documented and maintained pursuant to subsection (5) of this section available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in chapter 173-401 WAC.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-820, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-830 Permitting requirements. (1) The owner or operator of a proposed new major stationary source or a major modification of an existing major stationary source, as determined according to WAC 173-400-820, is authorized to construct and operate the proposed project provided the following requirements are met:

(a) The proposed new major stationary source or a major modification of an existing major stationary source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with WAC 173-400-113 (3)

and (4) for all air contaminants for which the area has not been designated nonattainment.

(b) The permitting authority has determined, based on review of an analysis performed by the owner of a proposed new major stationary source or a major modification of an existing major stationary source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(c) The proposed new major stationary source or a major modification of an existing major stationary source will comply with all applicable new source performance standards, National Emission Standards for Hazardous Air Pollutants, National Emission Standards for Hazardous Air Pollutants for source categories, and emission standards adopted by ecology and the permitting authority.

(d) The proposed new major stationary source or a major modification of an existing major stationary source will employ BACT for all air contaminants and designated precursors to those air contaminants, except that it will achieve LAER for the air contaminants and designated precursors to those air contaminants for which the area has been designated nonattainment and for which the proposed new major stationary source is major or for which the existing source is major and the proposed modification is significant.

Comment [LJW122]:

Paragraph (1)(d) incorrectly says that a “*major modification*” to an existing major stationary source must be “*major*” before LAER is required. The major modification itself need only be “significant” for the nonattainment pollutant (or precursor) but the existing major stationary source must itself be “major” for the nonattainment pollutant (or precursor). This provision is revised to provide separate language for new major stationary sources (which must be major for the nonattainment pollutant) and separate language for major modifications (for which the existing major stationary source must already be major for the nonattainment pollutant and the modification must be significant for the same pollutant).

The revision make the rule more consistent with current federal terminology.

(e) Allowable emissions from the proposed new major stationary source or major modification of an existing major stationary source of that air contaminant and designated precursors to those air contaminants are offset by reductions in actual emissions from existing sources in the nonattainment area. All offsetting emission reductions must satisfy the requirements in WAC 173-400-840.

(f) The owner or operator of the proposed new major stationary source or major modification of an existing major stationary source has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules in the SIP.

(g) If the proposed new source is also a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is also a major modification within the meaning of WAC 173-400-720, it meets the requirements of the PSD program under 40 CFR 52.21 delegated to Ecology by EPA Region 10. The proposed new major stationary source or major modification will comply with the PSD program in WAC ((173-400-720)) 173-400-700 through 173-400-750 for all air contaminants for which the area has not been designated nonattainment when that PSD program has been approved into the Washington SIP.

Comment [ARN123]:
The sum of the changes to this paragraph establish that Ecology currently operates a delegated PSD program. Once the state rule program has been adopted into the SIP, it will replace the delegated program.

Comment [LJW124]:
This edit points the reader to the applicable sections.

(h) The proposed new major stationary source or the proposed major modification meets the special protection requirements for federal Class I areas in WAC 173-400-117.

(i) All requirements of this section applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in an ozone nonattainment area or in portions of an ozone transport region where the administrator of the environmental protection agency has granted a NO_x waiver applying the standards set forth under section 182(f) of the Federal Clean Air Act and the waiver continues to apply.

(j) The requirements of this section applicable to major stationary sources and major modifications of PM-10 and PM-2.5 shall also apply to major stationary sources and major modifications of PM-10 and PM-2.5 precursors, except where the administrator of the EPA determines that such sources do not contribute significantly to PM-10 levels that exceed the PM-10 ambient standards in the area.

(2) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirements under local, state or federal law.

(3) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which

was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to 40 CFR 51.165, including 40 CFR Part 51, Appendix S, shall apply to the source or modification as though construction had not yet commenced on the source or modification.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-830, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-840 Emission offset requirements. (1) The ratio of total actual emissions reductions to the emissions increase shall be 1.1:1 unless an alternative ratio is provided for the applicable nonattainment area in subsection (2) through (4) of this section.

(2) In meeting the emissions offset requirements of WAC 173-400-830 for ozone nonattainment areas that are subject to sections 181-185B of the Federal Clean Air Act, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be as follows:

- (a) In any marginal nonattainment area for ozone - 1.1:1;
- (b) In any moderate nonattainment area for ozone - 1.15:1;

Comment [LJW125]:

This edit assures inclusion of any nonattainment new source review permits issued before the adoption of the 800 to 860 program into the SIP. Nonattainment new source review permits issued in the Wapato Hills PM2.5 nonattainment area between now and the time that the 800 series is SIP approved will have to be permitted subject to part 51 appendix S program.

(c) In any serious nonattainment area for ozone - 1.2:1;

(d) In any severe nonattainment area for ozone - 1.3:1; and

(e) In any extreme nonattainment area for ozone - 1.5:1.

(3) Notwithstanding the requirements of subsection (2) of this section for meeting the requirements of WAC 173-400-830, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be 1.15:1 for all areas within an ozone transport region that is subject to sections 181-185B of the Federal Clean Air Act, except for serious, severe, and extreme ozone nonattainment areas that are subject to sections 181-185B of the Federal Clean Air Act.

(4) In meeting the emissions offset requirements of this section for ozone nonattainment areas that are subject to sections 171-179b of the Federal Clean Air Act (but are not subject to sections 181-185B of the Federal Clean Air Act, including eight-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be 1.1:1.

(5) Emission offsets used to meet the requirements of WAC 173-400-830 (1)(e), must be for the same regulated NSR pollutant.

(6) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(7) Emission offsets (~~not included~~) including those described in an emission reduction credit issued under WAC 173-400-131, must meet the following criteria:

(a) The baseline for determining credit for emissions reductions is the emissions limit under the applicable state implementation plan in effect at the time the notice of construction application is determined to be complete, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

(i) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the designated nonattainment area; or

(ii) The applicable state implementation plan does not contain an emissions limitation for that source or source category.

(b) Other limitations on emission offsets.

(i) Where the emissions limit under the applicable state implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below the potential to emit;

(ii) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable state implementation plan for the type of fuel being burned at the time the notice of construction application is determined to be complete. If the existing source commits to switch to a cleaner fuel at some future date, an emissions offset credit based on

Comment [LJW126]: This change assures that emission reduction credits issued under section 131 and proposed for use as an emission offset under section 136 also meet all federal criteria for use as offsetting emission reduction for nonattainment area permitting.

the allowable (or actual) emissions reduction resulting from the fuels change is not acceptable, unless the permit or other enforceable order is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to the higher emitting (dirtier) fuel at some later date. The permitting authority must ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches;

(iii) Emission reductions.

(A) Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if:

(I) Such reductions are surplus, permanent, quantifiable, and federally enforceable; and

(II) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the permitting authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the preshutdown or precurtailment emissions from the previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

(B) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating

hours and that do not meet the requirements in subsection (8)(b)(iii)(A) of this section may be generally credited only if:

(I) The shutdown or curtailment occurred on or after the date the construction permit application is filed; or

(II) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of (7)(b)(iii)(A)(I) of this section.

(iv) All emission reductions claimed as offset credit shall be federally enforceable;

(v) Emission reductions used for offsets may only be from any location within the designated nonattainment area. Except the permitting authority may allow use of emission reductions from another area that is nonattainment for the same pollutant, provided the following conditions are met:

(A) The other area is designated as an equal or higher nonattainment status than the nonattainment area where the source proposing to use the reduction is located; and

(B) Emissions from the other nonattainment area contribute to violations of the standard in the nonattainment area where the source proposing to use the reduction is located.

(vi) Credit for an emissions reduction can be claimed to the extent that the reduction has not been relied on in issuing any permit under 40 CFR 52.21 or regulations approved pursuant

Comment [LJW127]:
Paragraph (7)(b)(vi) is expanded to include a reference to permits issued pursuant to 40 CFR 52.21. Since NOx and SOx are both NAAQS pollutants and precursors for ozone and PM2.5, emission reductions relied upon in a PSD permit issued while 52.21 is still in effect cannot be credited for offsets.

This change states clearly the relationship of Ecology's program and the operation of a delegated PSD program.

to 40 CFR Part 51 Subpart I or the state has not relied on it in demonstration of attainment or reasonable further progress.

(vii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with Section 173 of the Federal Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

(8) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977). This document is also available from Mr. Ted Creekmore, Office of Air Quality Planning and Standards, (MD-15) Research Triangle Park, NC 27711.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-840, filed 3/1/11, effective 4/1/11.]

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-850 Actual emissions plantwide applicability limitation (PAL). The Actuals Plantwide Applicability limit program contained in Section IV.K of 40 CFR Part 51, Appendix S, Emission Offset Ruling, as of (~~July 1, 2010~~) May 1, 2012, is adopted by reference with the following exceptions:

(1) The term "reviewing authority" means "permitting authority" as defined in WAC 173-400-030.

(2) "PAL permit" means the major or minor new source review permit issued that establishes the PAL and those PAL terms as they are incorporated into an air operating permit issued pursuant to chapter 173-401 WAC.

(3) The reference to 40 CFR 70.6 (a)(3)(iii)(B) in subsection IV.K.14 means WAC 173-401-615 (3)(b).

(4) No PAL permit can be issued under this provision until EPA adopts this section into the state implementation plan.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-850, filed 3/1/11, effective 4/1/11.]

Comment [LJW128]:
Update of adoption by reference date.

AMENDATORY SECTION (Amending Order 09-01, filed 3/1/11, effective 4/1/11)

WAC 173-400-930 Emergency engines. (1) Applicability.

(a) This section applies statewide except where a permitting authority has taken specific action determining not to adopt this section.

(b) This section applies to diesel-fueled compression ignition emergency engines with a cumulative BHP rating greater than 500 BHP and equal to or less than 2000 BHP.

(c) This section is not applicable to emergency engines that are part of a major stationary source, as defined in WAC 173-400-710 and 173-400-810, or major modification, as defined in WAC 173-400-710 and 173-400-810.

(d) In lieu of filing a notice of construction application under WAC 173-400-110, the owner or operator may comply with the requirements of this section for emergency engines.

~~((e))~~ (e) Compliance with this section satisfies the requirement for new source review of emergency engines under RCW 70.94.152 and chapter 173-460 WAC.

~~((d))~~ (f) An applicant may choose to submit a notice of construction application in accordance with WAC 173-400-110 for a site specific review of criteria and toxic air pollutants in lieu of using this section's provisions.

Comment [LJW129]:
This is another new applicability statement. The purpose is to clearly set the standard for what must be done if a local air agency does not want to use this provision. Section 930 is rather new and we found that we were having implementation problems with local air agencies whose rules are silent on this provision. A permittee would read the provisions in WAC 173-400-930 and want to use them, only to be told by their local air agency that this program was not available.

Comment [LJW130]: New language is required to complete the definition of "new source".

Comment [LJW131]: New language is required to complete the definition of "new source".

Comment [LJW132]:
EPA requested this new provision. EPA finds that this provision is required to make WAC 173-400 compliant with the federal clean air act.

~~((e))~~ (g) If an applicant cannot meet the requirements of this section, then they must file a notice of construction application.

(2) **Operating requirements for emergency engines.**

Emergency engines using this section must:

(a) Meet EPA emission standards applicable to all new nonroad compression-ignition engines, contained in 40 CFR Part 89.112 Table 1 and 40 CFR Part 1039.102 Tables 6 and 7, as applicable for the year that the emergency engine is put in operation.

(b) Be fueled by ultra low sulfur diesel or ultra low sulfur biodiesel, with a sulfur content of 15 ppm or 0.0015% sulfur by weight or less.

(c) Operate a maximum of fifty hours per year for maintenance and testing or other nonemergency use.

(3) **Definitions.**

(a) **Emergency engine** means a new diesel-fueled stationary compression ignition engine. The engine must meet all the criteria specified below. The engine must be:

(i) Installed for the primary purpose of providing electrical power or mechanical work during an emergency use and is not the source of primary power at the facility; and

(ii) Operated to provide electrical power or mechanical work during an emergency use.

(b) **Emergency use** means providing electrical power or mechanical work during any of the following events or conditions:

(i) The failure or loss of all or part of normal power service to the facility beyond the control of the facility; or

(ii) The failure or loss of all or part of a facility's internal power distribution system.

Examples of emergency operation include the pumping of water or sewage and the powering of lights.

(c) **Maintenance and testing** means operating an emergency engine to:

(i) Evaluate the ability of the engine or its supported equipment to perform during an emergency; or

(ii) Train personnel on emergency activities; or

(iii) Test an engine that has experienced a breakdown, or failure, or undergone a preventative overhaul during maintenance; or

(iv) Exercise the engine if such operation is recommended by the engine or generator manufacturer.

[Statutory Authority: Chapter 70.94 RCW. 11-06-060 (Order 09-01), § 173-400-930, filed 3/1/11, effective 4/1/11.]