

NEW SECTION

**WAC 173-400-025 Adoption of federal rules.** Federal rules mentioned in this rule are adopted as they exist on January 1, 2016. Adopted or adopted by reference means the federal rule applies as if it was copied into this rule.

AMENDATORY SECTION (Amending WSR 11-06-060, filed 3/1/11, effective 4/1/11)

**WAC 173-400-040 General standards for maximum emissions.** (1) All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard takes precedence over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units.

All emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, the permitting authority shall, as provided in RCW 70.94.154, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(2) **Visible emissions.** No person shall cause or allow the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to allow the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the permitting authority must be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more emission units are connected to a common stack, the permitting authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(e) Exemptions from twenty percent opacity standard.

(i) Visible emissions reader certification testing. Visible emissions from the "smoke generator" used for testing and certification of visible emissions readers per the requirements of 40 C.F.R. Part 60, Appendix A, ((Reference)) test method 9 (in effect on the date in WAC 173-400-025) and ecology methods 9A and 9B shall be exempt from compliance with the twenty percent opacity limitation while being used for certifying visible emission readers.

(ii) Military training exercises. Visible emissions resulting from military obscurant training exercises are exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:

(A) No visible emissions shall cross the boundary of the military training site/reservation.

(B) The operation shall have in place methods, which have been reviewed and approved by the permitting authority, to detect changes in weather that would cause the obscurant to cross the site boundary either during the course of the exercise or prior to the start of the exercise. The approved methods shall include provisions that result in cancellation of the training exercise, cease the use of obscurants during the exercise until weather conditions would allow such training to occur without causing obscurant to leave the site boundary of the military site/reservation.

(iii) Firefighter training. Visible emissions from fixed and mobile firefighter training facilities while being used to train firefighters and while complying with the requirements of chapter 173-425 WAC.

(3) **Fallout.** No person shall cause or allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(4) **Fugitive emissions.** The owner or operator of any emissions unit engaging in materials handling, construction, demolition or other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, the owner or operator shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the air contaminants for which nonattainment has been designated.

(5) **Odors.** Any person who shall cause or allow the generation of any odor from any source or activity which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(6) **Emissions detrimental to persons or property.** No person shall cause or allow the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(7) **Sulfur dioxide.** No person shall cause or allow the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to

seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an emissions unit supplies emission data and can demonstrate to the permitting authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the permitting authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to the permitting authority.

(8) **Concealment and masking.** No person shall cause or allow the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(9) **Fugitive dust.**

(a) The owner or operator of a source or activity that generates fugitive dust must take reasonable precautions to prevent that fugitive dust from becoming airborne and must maintain and operate the source to minimize emissions.

(b) The owner or operator of any existing source or activity that generates fugitive dust that has been identified as a significant contributor to a PM-10 or PM-2.5 nonattainment area is required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113(4).

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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)) test method 5 in Appendix A to 40 C.F.R. Part 60, (in effect on ((July 1, 2012)) the date in WAC 173-400-025) 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, 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 C.F.R. Part 63, subpart EEE in effect on the date in WAC 173-400-025) and WAC 173-400-115 (40 C.F.R. Part 60, subparts E, Ea, Eb, Ec, AAAA, and CCCC (in effect on the date in WAC 173-400-025)) 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 patho-

logical waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 C.F.R. 60.2265 (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025) 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 C.F.R. 60.2265 (in effect on ~~((January 30, 2001))~~ the date in WAC 173-400-025) are not subject to this 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 C.F.R. Part 60, subpart Ea or subpart Eb (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025); Spokane County Air Pollution Control Authority Regulation 1, Section 6.17 (in effect on February 13, 1999); 40 C.F.R. Part 60, subpart AAAA (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025); or WAC 173-400-050(5).

(B) Units burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 C.F.R. Part 60 (in effect on the date in WAC 173-400-025), subparts Ea (~~((in effect on July 1, 2010))~~), Eb (~~((in effect on July 1, 2010))~~), and AAAA (~~((in effect on July 1, 2010))~~), 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.

(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 C.F.R. 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))~~ the date in WAC 173-400-025);

(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 C.F.R. Part 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.2245 through 60.2260 (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.2265 (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(xi) *Rack, part, and drum reclamation units.* See 40 C.F.R. 60.2265 (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(xii) *Cement kilns.* Kilns regulated under subpart LLL of 40 C.F.R. Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(xiii) *Sewage sludge incinerators.* Incineration units regulated under 40 C.F.R. Part 60, subpart O (Standards of Performance for Sewage Treatment Plants) (in effect on ~~((July 1, 2010))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.2815(~~(, in effect on July 1, 2010)~~)) (in effect on the date in WAC 173-400-025).

(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 C.F.R. 60.2815 (in effect on (~~July 1, 2010~~)) the date in WAC 173-400-025) mean the CISWI unit is considered a new unit and subject to WAC 173-400-115, which adopts 40 C.F.R. Part 60, subpart CCCC (~~by reference~~)) (in effect on the date in WAC 173-400-025).

(e) A CISWI unit must comply with 40 C.F.R. 60.2575 through 60.2875(~~(, in effect on July 1, 2010, which is adopted by reference)~~) (in effect on the date in WAC 173-400-025). The federal rule contains these major components:

- Increments of progress towards compliance in 60.2575 through 60.2630;
- 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 C.F.R. 60.2805(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 co-fire 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 C.F.R. 60.1940 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.1910 (~~((in effect on July 1, 2012))~~) combusts 100 percent yard waste, then those units must only meet the requirements under 40 C.F.R. 60.1910 through 60.1930 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.1940 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.1940 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025), mean the unit is considered a new unit and subject to WAC 173-400-115, which adopts 40 C.F.R. Part 60, subpart AAAA (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.1940 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025) for the specification of which units are included in the aggregate capacity calculation.

(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 C.F.R. 60.1940 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025) for the specification of which units are included in the aggregate capacity calculation.

(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 C.F.R. 60.1610 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. 60.1935 (d) and (e) (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025) to calculate the combustion capacity of a municipal waste combustion unit.

(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 C.F.R. 60.1935 (d) and (e) (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025) to calculate the combustion capacity of a municipal waste combustion unit.

(g) Compliance option 2. The municipal waste combustion unit must comply with 40 C.F.R. 60.1585 through 60.1905, and 60.1935 (in effect on ~~((July 1, 2012)), which is adopted by reference~~) the date in WAC 173-400-025).

(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 C.F.R. 60.1790 (in effect on ~~((July 1, 2012))~~ the date in WAC 173-400-025).

(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 C.F.R. Part 60, subpart BBBB (in effect on ~~((February 5, 2001))~~ the date in WAC 173-400-025) 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.

(6) Hazardous/medical/infectious waste incinerators constructed on or before December 1, 2008. Hospital/medical/infectious waste incinerators constructed on or before December 1, 2008, must comply with the requirements in 40 C.F.R. Part 62, subpart HHH (in effect on the date in WAC 173-400-025).

AMENDATORY SECTION (Amending WSR 05-03-033, filed 1/10/05, effective 2/10/05)

**WAC 173-400-060 Emission standards for general process units.**

General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or allow the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. ((EPA)) Test methods (in effect on ~~((February 20, 2001))~~ the date in WAC 173-400-025) from 40 C.F.R. Parts 51, 60, 61, and 63 and any other approved test procedures ~~((which are contained))~~ in ecology's "*Source Test Manual - Procedures For Compliance Testing*" as of ~~((July 12, 1990))~~ September 20, 2004, will be used to determine compliance.

**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 C.F.R. Part 60, subpart DDDD in effect on the date in WAC 173-400-025) 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 C.F.R. Part 60, subpart DDDD in effect on the date in WAC 173-400-025) 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) **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 C.F.R. Part 60 rules mean those rules in effect on (~~July 1, 2000~~) the date in WAC 173-400-025.

(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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 60.757 (submission of an initial design capacity report) and 40 C.F.R. 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 C.F.R. 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 C.F.R. 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 C.F.R. 60.753.

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

(C) The system must follow the applicable monitoring provisions in 40 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 62.14353; or

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

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants.** (1) National emission standards for hazardous air pollutants (NESHAPs). 40 C.F.R. Part 61 and Appendices (~~(in effect on July 1, 2012,)~~) (in effect on the date in WAC 173-400-025) are adopted (~~(by reference)~~). The term "administrator" in 40 C.F.R. Part 61 includes the permitting authority.

(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 C.F.R. Parts 61, 62, 63 and 65, as applicable, in order to determine

the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

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

(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 C.F.R. 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) Major sources of hazardous air pollutants. 40 C.F.R. Part 63 and Appendices in effect on July 1, 2012, as they apply to major 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 and as specified under (b), (c), and (d) of this subsection.)) Adoption of federal rules.~~

(a) The term "administrator" in 40 C.F.R. Part 63 includes the permitting authority.

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

- ~~(i) Subpart EEEEEEE, Primary Copper Smelting;~~
- ~~(ii) Subpart FFFFFFF, Secondary Copper Smelting;~~
- ~~(iii) Subpart GGGGGG, Primary Nonferrous Metal;~~
- ~~(iv) Subpart SSSSSS, Pressed and Blown Glass Manufacturing;~~
- ~~(v) Subpart YYYYYY, 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) MMMMMM, Carbon black production;~~
- ~~(xi) NNNNNN, Chromium compounds; and~~
- ~~(xii) VVVVVV, Chemical manufacturing for synthetic minors.~~
- ~~(xiii) EEEEEEEE, Gold Mine Ore Processing and Production.~~

~~(c) The area source rules in 40 C.F.R. Part 63 and appendices in effect on July 1, 2012, (except subpart JJJJJJ) 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 C.F.R. Part 63, Subpart JJJJJJ: Industrial, Commercial and Institutional Boilers, is not adopted by reference.~~

~~(e) 40 C.F.R. Part 63, Subpart DDDDD — National emission for major sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, is not adopted by reference.)) Major sources of hazardous air pollutants. 40 C.F.R. Part 63 and Appendices (in effect on the date in WAC 173-400-025) are adopted as they apply to major sources of hazardous air pollutants.~~

(c)(i) Nonmajor sources of hazardous air pollutants (area source rules). The stationary sources affected by the following subparts of 40 C.F.R. Part 63 are subject to chapter 173-401 WAC (Operating permit regulation). These subparts of 40 C.F.R. Part 63 and Appendices (in effect on the date in WAC 173-400-025) are adopted:

- (A) Subpart X, Secondary lead smelting;
- (B) Subpart EEE, Hazardous waste incineration;
- (C) Subpart LLL, Portland cement;
- (D) Subpart IIIII, Mercury cell chlor-alkali plants;
- (E) Subpart YYYYY, Stainless and nonstainless steel manufacturing (electric arc furnace);
- (F) Subpart EEEEE, Primary copper smelting;
- (G) Subpart FFFFF, Secondary copper smelting;
- (H) Subpart GGGGG, Primary nonferrous metal;
- (I) Subpart MMMMM, Carbon black production;
- (J) Subpart NNNNN, Chromium compounds;
- (K) Subpart SSSSS, Pressed and blown glass manufacturing;
- (L) Subpart VVVVV, Chemical manufacturing for synthetic minors;

and

(M) Subpart EEEEEEE, Gold mine ore processing and production.

(ii) 40 C.F.R. Part 63 and Appendices are adopted (WAC 173-400-025) as they apply to a stationary source located at a source subject to chapter 173-401 WAC (Operating permit regulation).

(7) Consolidated ((requirements for the)) federal air rule (synthetic organic chemical manufacturing industry). 40 C.F.R. Part 65((~~in effect on July 1, 2012,~~)) (in effect on the date in WAC 173-400-025) is adopted ((by reference)).

**(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 C.F.R. Part 63, subpart M (in effect on ((July 1, 2012)) the date in WAC 173-400-025).

(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 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.

AMENDATORY SECTION (Amending WSR 05-03-033, filed 1/10/05, effective 2/10/05)

**WAC 173-400-100 Source classifications.** (1) **Source classification list.** In counties without a local authority, or for sources under the jurisdiction of ecology, the owner or operator of each source

within the following source categories shall register the source with ecology:

(a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

(b) Agricultural drying and dehydrating operations;

(c) Any category of stationary source that includes an emissions unit subject to a new source performance standard (NSPS) under 40 C.F.R. Part 60 (in effect on the date in WAC 173-400-025), other than subpart AAA (Standards of Performance for New Residential Wood Heaters);

(d) Any stationary source, that includes an emissions unit subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 C.F.R. Part 61 (in effect on the date in WAC 173-400-025), other than:

(i) Subpart M (National Emission Standard for Asbestos); or

(ii) Sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 C.F.R. Part 61, subparts H and/or I, and that are not subject to any other part of 40 C.F.R. Parts 61, 62, or 63, or any other parts of this section;

(e) Any source, or emissions unit subject to a National Emission Standard for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technology (MACT) standard) under 40 C.F.R. Part 63 (in effect on the date in WAC 173-400-025);

(f) Any source, stationary source or emission unit with an emission rate of one or more pollutants equal to or greater than an "emission threshold" defined in WAC 173-400-030;

(g) Asphalt and asphalt products production facilities;

(h) Brick and clay manufacturing plants, including tiles and ceramics;

(i) Casting facilities and foundries, ferrous and nonferrous;

(j) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;

(k) Chemical manufacturing plants;

(l) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;

(m) Concrete product manufacturers and ready mix and premix concrete plants;

(n) Crematoria or animal carcass incinerators;

(o) Dry cleaning plants;

(p) Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

(q) Flexible vinyl and urethane coating and printing operations;

(r) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

(s) Hay cubers and pelletizers;

(t) Hazardous waste treatment and disposal facilities;

(u) Ink manufacturers;

(v) Insulation fiber manufacturers;

(w) Landfills, active and inactive, including covers, gas collection systems or flares;

(x) Metal plating and anodizing operations;

(y) Metallic and nonmetallic mineral processing plants, including rock crushing plants;

(z) Mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

(aa) Mineralogical processing plants;

(bb) Other metallurgical processing plants;

(cc) Paper manufacturers;

(dd) Petroleum refineries;

(ee) Petroleum product blending operations;

(ff) Plastics and fiberglass product fabrication facilities;

(gg) Rendering plants;

(hh) Soil and groundwater remediation projects;

(ii) Surface coating manufacturers;

(jj) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;

(kk) Synthetic fiber production facilities;

(ll) Synthetic organic chemical manufacturing industries;

(mm) Tire recapping facilities;

(nn) Wastewater treatment plants;

(oo) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.

(2) **Equipment classification list.** In counties without a local authority, the owner or operator of the following equipment shall register the source with ecology:

(a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;

(b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;

(c) Chemical concentration evaporators;

(d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;

(e) Ethylene oxide (ETO) sterilizers;

(f) Flares utilized to combust any gaseous material;

(g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

(h) Incinerators designed for a capacity of one hundred pounds per hour or more;

(i) Ovens, burn-out and heat-treat;

(j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;

(k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;

(l) Vapor collection systems within commercial or industrial facilities;

(m) Waste oil burners above 0.5 mm Btu heat output;

(n) Woodwaste incinerators;

(o) Commercial and industrial solid waste incineration units subject to WAC 173-400-050(4);

(p) Small municipal waste combustion units subject to WAC 173-400-050(5).

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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)) test methods from 40 C.F.R. Parts 51, 60, 61 and 63 (in effect on ((July 1, 2012)) the date in WAC 173-400-025) 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 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 C.F.R. Part 51, Appendix P, Sections 3, 4 and 5 (in effect on (~~May 1, 2012~~) the date in WAC 173-400-025).

(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.

(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 C.F.R. Parts 60, 61, 62, 63, or 75 (all in effect on the date in WAC 173-400-025) 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) 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.

(7) Continuous emission monitoring system operating requirements. All continuous emission monitoring systems (CEMS) required by 40 C.F.R. Parts 60, 61, 62, 63, or 75 (all in effect on the date in WAC 173-400-025), 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 C.F.R. 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 C.F.R. 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 C.F.R. Part 60 (in effect on ((May 1, 2012, and the U.S. Environmental Protection Agency's)) the date in WAC 173-400-025), and EPA'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 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.

(8) 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-111 Processing notice of construction applications for sources, stationary sources and portable sources.** WAC 173-400-110, 173-400-111, 173-400-112, and 173-400-113 apply statewide except where a permitting authority has adopted its own new source review regulations.

(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 or increased as part of a modification, 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 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 as applicable:

- (a) The requirements of WAC 173-400-112;
- (b) The requirements of WAC 173-400-113;
- (c) The requirements of WAC 173-400-117;
- (d) The requirements of WAC 173-400-171;
- (e) The requirements of WAC 173-400-200 and 173-400-205;
- (f) The requirements of WAC 173-400-700 through 173-400-750;
- (g) The requirements of WAC 173-400-800 through 173-400-860;
- (h) The requirements of chapter 173-460 WAC; and

(i) 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.

(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;

(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.

(c) The applicant must consider the criteria in 40 C.F.R. 52.21 (r)(4) (~~((as adopted by reference in WAC 173-400-720))~~) (in effect on the date in WAC 173-400-025) or 173-400-830(3), as applicable, when determining which new source review approvals are required.

(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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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)~~) of federal rules.**

(a) 40 C.F.R. Part 60 and Appendices (~~(in effect on August 14, 2012,)~~) (in effect on the date in WAC 173-400-025) are adopted (~~(by reference)~~). Exceptions are listed in (b) (~~(and (e))~~) of this subsection.

(b) (~~(40 C.F.R. Part 60, Subpart CCCC — Standards of Performance for Commercial and Industrial Solid Waste Incineration Units (December 23, 2011), is not adopted by reference.~~

~~(e))~~ Exceptions to adopting 40 C.F.R. Part 60 (~~(by reference)~~).

(i) The term "administrator" in 40 C.F.R. Part 60 includes the permitting authority.

(ii) The following sections and subparts of 40 C.F.R. Part 60 are not adopted (~~(by reference)~~):

(A) 40 C.F.R. 60.5 (determination of construction or modification);

(B) 40 C.F.R. 60.6 (review of plans);

(C) 40 C.F.R. Part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, DDDD, FFFF, (~~(HHHH)~~) MMMM, UUUU (emission guidelines); and

(D) 40 C.F.R. Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 C.F.R. 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 C.F.R. 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).

AMENDATORY SECTION (Amending WSR 11-17-037, filed 8/10/11, effective 9/10/11)

**WAC 173-400-116 Increment protection.** This section takes effect on the effective date of EPA's incorporation of this section into the Washington state implementation plan.

(1) Ecology will periodically review increment consumption. Within sixty days of the time that information becomes available to ecology that an applicable increment is or may be violated, ecology will review the state implementation plan for its adequacy to protect the increment from being exceeded. The plan will be revised to correct any inadequacies identified or to correct the increment violation. Any changes to the state implementation plan resulting from the review will be subject to public involvement in accordance with WAC 173-400-171 and EPA approval.

(2) PSD increments are published in 40 C.F.R. 52.21(c) (~~as adopted by reference in WAC 173-400-720 (4)(a)(iv)~~) (in effect on the date in WAC 173-400-025).

(3) Exclusions from increment consumption. The following concentrations are excluded when determining increment consumption:

(a) Concentrations of particulate matter, PM-10, or PM-2.5, attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(b) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

(c) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources, which are affected by a revision to the SIP approved by (~~the administrator of the environmental protection agency~~) EPA. Such a revision must:

(i) Specify the time over which the temporary emissions increase of sulfur dioxide, particulate matter, or nitrogen oxides would occur. Such time is not to exceed two years in duration unless a longer time is approved by (~~the administrator~~) EPA.

(ii) Specify that the time period for excluding certain contributions in accordance with (c)(i) of this subsection is not renewable;

(iii) Allow no emissions increase from a stationary source, which would:

(A) Impact a Class I area or an area where an applicable increment is known to be violated; or

(B) Cause or contribute to the violation of a national ambient air quality standard.

(iv) Require limitations to be in effect by the end of the time period specified in accordance with (c)(i) of this subsection, which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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 actions and to provide opportunities for the public to participate in those 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.

(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 173-400-700 through 173-400-750. 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.**

(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 level for that toxic air pollutant 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 C.F.R. Part 51 (in effect on ~~(May 1, 2012)~~ the date in WAC 173-400-025) 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

(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 given by prominent advertisement in the area affected by the proposal. Prominent advertisement may be by publication in a newspaper of general circulation in the area of the proposed action or other means of prominent advertisement in the area affected by the proposal. This public notice can be published or given only after all of the information required by the permitting authority has been submitted and after the applicable preliminary determinations, if any, have been made. The notice must be published or 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((7)) including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(6) **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;

(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 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 deci-

sion or state that an explanation of the draft decision appears in the support document for the proposed order of approval.

(7) **Length of the public comment period.**

(a) The public comment period must extend at least thirty days 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) Give public hearing notice by prominent advertisement in the area affected by the proposal. Prominent advertisement may be by publication in a newspaper of general circulation in the area of the proposed action or other means of prominent advertisement in the area affected by the proposal; and

(ii) Mail the notice of public hearing 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.

(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) In the case of a permit action, 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 a mandatory public comment period to the EPA Region 10 regional administrator.

(12) **Special requirements for ecology only actions.**

(a) 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.

(c) The public notice for ecology only actions must comply with the requirements of 40 C.F.R. 51.102 (~~(in effect on July 1, 2012)~~) (in effect on the date in WAC 173-400-025).

(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.

AMENDATORY SECTION (Amending WSR 91-05-064, filed 2/19/91, effective 3/22/91)

**WAC 173-400-260 Conflict of interest.** All board members and officials acting or voting on decisions affecting air pollution sources, must comply with the Federal Clean Air Act, as it pertains to conflict of interest (~~(, and 40 C.F.R. 103(d) which is incorporated by reference)~~) (Section 128).

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-710 Definitions.** (1) For purposes of WAC 173-400-720 through 173-400-750 the definitions in 40 C.F.R. 52.21(b) (~~(, adopted by reference in WAC 173-400-720 (4)(a)(iv), are to)~~) (in effect on the date in WAC 173-400-025) must be used (~~(, except)~~). Exception: The definition of "secondary emissions" as defined in WAC 173-400-030 (~~(will)~~) must be used.

(2) All usage of the term "source" in WAC 173-400-710 through 173-400-750 and in 40 C.F.R. 52.21 (~~(as adopted by reference is to)~~) must be interpreted to mean "stationary source" as defined in 40 C.F.R. 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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 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 (1) through (4);

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(iii) WAC 173-400-200;

(iv) WAC 173-400-205;

(v) Allowable emission limits established under WAC 173-400-081 must also meet the criteria of 40 C.F.R. 52.21 (k)(1) and 52.21 (p)(1) through (4) (in effect on the date in WAC 173-400-025); and

(vi) The following subparts of 40 C.F.R. 52.21(~~, in effect on August 13, 2012, which~~) (in effect on the date in WAC 173-400-025) are adopted (~~by reference~~). Exceptions are listed in (b)(i), (ii), (iii), and (iv) of this subsection:

Section	Title
40 C.F.R. 52.21 (a)(2)	Applicability Procedures.
40 C.F.R. 52.21 (b)	Definitions, except the definition of "secondary emissions."
40 C.F.R. 52.21 (c)	Ambient air increments.
40 C.F.R. 52.21 (d)	Ambient air ceilings.
40 C.F.R. 52.21 (h)	Stack heights.
40 C.F.R. 52.21 (i)	Review of major stationary sources and major modifications - Source applicability and exemptions.
40 C.F.R. 52.21 (j)	Control technology review.
40 C.F.R. 52.21 (k)	Source impact analysis.
40 C.F.R. 52.21 (l)	Air quality models.
40 C.F.R. 52.21 (m)	Air quality analysis.
40 C.F.R. 52.21 (n)	Source information.
40 C.F.R. 52.21 (o)	Additional impact analysis.
40 C.F.R. 52.21 (p)(1) through (4)	Sources impacting federal Class I areas - Additional requirements
40 C.F.R. 52.21 (r)	Source obligation.
40 C.F.R. 52.21 (v)	Innovative control technology.
40 C.F.R. 52.21 (w)	Permit rescission.
40 C.F.R. 52.21 (aa)	Actuals Plantwide Applicability Limitation.

(b) Exceptions to adopting 40 C.F.R. 52.21 by reference.

(i) Every use of the word "administrator" in 40 C.F.R. 52.21 means ecology except for the following:

(A) In 40 C.F.R. 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 C.F.R. 52.21 (1)(2), air quality models, "administrator" means the EPA administrator.

(C) In 40 C.F.R. 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 C.F.R. 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 C.F.R. 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(F) In 40 C.F.R. 52.21 (b)(37) related to the definition of re-powering, "administrator" means the EPA administrator.

(G) In 40 C.F.R. 52.21 (b)(51) related to the definition of reviewing authority, "administrator" means the EPA administrator.

(ii) Each reference in 40 C.F.R. 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (p)(1) ((-)), (2), (3) and (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 C.F.R. 52.21:

(A) In 40 C.F.R. 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 C.F.R. 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 C.F.R. 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 C.F.R. 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 C.F.R. 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 description of the project;

(b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

- (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 projected actual emissions, the amount of emissions excluded under paragraph 40 C.F.R. 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 C.F.R. 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 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 C.F.R. 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 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.
- (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 C.F.R. 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- (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 C.F.R. 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 C.F.R. 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 C.F.R. 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 C.F.R. 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).
- (vi) A "reasonable possibility" under this subsection occurs when the owner or operator calculates the project to result in either:

- (a) A projected actual emissions increase of at least fifty percent of the amount that is a "significant emissions increase," (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
- (b) A projected actual emissions increase that, added to the amount of emissions excluded under the definition of projected actual emissions sums to at least fifty percent of the amount that is a "significant emissions increase," (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of (r)(6)(vi)(b) of this subsection, and not also within the meaning of (r)(6)(vi)(a) of this subsection, then the provisions of (r)(6)(vi)(ii) through (v) of this subsection do not apply to the project."

(E) 40 C.F.R. 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 C.F.R. 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 C.F.R. 70.4 (b)(3)(viii)."

(F) 40 C.F.R. 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 issued by ecology that establishes a PAL for a major stationary source."

(G) 40 C.F.R. 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 C.F.R. 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 C.F.R. 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 C.F.R. 52.21 (aa)(14)(i) through (iii)."

(J) 40 C.F.R. 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 C.F.R. 52.21 (r)(2) is not adopted ((~~by reference~~)).

**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 C.F.R. 52.21(aa) shall be done as provided in 40 C.F.R. 52.21(aa)(3) ~~((-)) through (5)((, which is adopted by reference in WAC 173-400-720 (4)(a)(iv), except public))~~ (in effect on the date in WAC 173-400-025). Exception: Public participation must comply with WAC 173-400-740.

**(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) 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 pub-

lic 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 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 C.F.R. 124.13 and 40 C.F.R. 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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 C.F.R. Part 51 (~~((as in effect on May 1, 2012))~~) (in effect on the date in WAC 173-400-025) as part of review of air quality impacts.

(2) **Notification of the public.** 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 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-810 Major stationary source and major modification definitions.** 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))~~) Limitation (WAC 173-400-850), then that definition (~~((is to))~~) must be used for purposes of the Plant Wide Applicability (~~((Limit))~~) Limitation 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 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 be-

gins 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))~~ EPA, 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))~~ EPA proposed or promulgated under 40 C.F.R. 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, O<sub>2</sub> or CO<sub>2</sub> 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))~~ EPA);

(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 ((aet)) Federal Clean Air 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 signif-

icant 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 C.F.R. 52.21 or under regulations approved pursuant to 40 C.F.R. Part 51, Subpart I or (~~section~~) 40 C.F.R. 51.166; or

(B) The source is approved to use under any permit issued under regulations approved by (~~the administrator~~) EPA implementing 40 C.F.R. 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 C.F.R. 52.21 or regulations approved pursuant to 40 C.F.R. Part 51, Subpart I or 40 C.F.R. 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 C.F.R. Part 51, Appendix S (~~adopted by reference in WAC 173-400-850~~) (in effect on the date in WAC 173-400-025) 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 sub-

ject 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 C.F.R. 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 C.F.R. 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~~) EPA and incorporated into the plan to implement the requirements of 40 C.F.R. 51.165, or a program that implements 40 C.F.R. 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, O<sub>2</sub> or CO<sub>2</sub> 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~~) EPA and incorporated into the plan to implement the requirements of 40 C.F.R. 51.166, or under the program in 40 C.F.R. 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 in-

crease 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)(i) through (iii) 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, 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 C.F.R. 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 practi-

cal 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

(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~~) EPA 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 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) 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 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 C.F.R. 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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 or operator of a proposed new major stationary source or a major modification of an existing major sta-

tionary 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 a major modification.

(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 C.F.R. 52.21 delegated to ecology by EPA Region 10, while such delegated program remains in effect. The proposed new major stationary source or major modification will comply with the PSD program in WAC 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.

(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~~)) EPA has granted a NO<sub>x</sub> 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 ap-

ply 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 enforceable 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 C.F.R. 51.165, or the requirements of 40 C.F.R. Part 51, Appendix S, as applicable, shall apply to the source or modification as though construction had not yet commenced on the source or modification. 40 C.F.R. Part 51, Appendix S shall not apply to a new or modified source for which enforceable limitations are established after WAC 173-400-800 through 173-400-850 have been approved into Washington's SIP.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**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 non-attainment 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;
- (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 C.F.R. 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 are required for the incremental increase in allowable emissions occurring during startup and shutdown operations at the new or modified emission units subject to nonattainment area major new source review. The incremental increase is the difference between the allowable emissions during normal operation and the allowable emissions for startup and shutdown contained in the nonattainment new source review approval.

(8) Emission offsets 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 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 shut-

down 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 C.F.R. 52.21 or regulations approved pursuant to 40 C.F.R. 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.

(9) 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 Creechmore,~~)) Office of Air Quality Planning and Standards, (MD-15) Research Triangle Park, NC 27711.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-850 Actual emissions plantwide applicability limitation (PAL).** The Actuals Plantwide Applicability ((~~limit~~)) Limitations (PAL) program ((~~contained~~)) in Section IV.K of Appendix S (Emission Offset Interpretive Ruling) to 40 C.F.R. Part 51, ((~~Appendix S, Emis-~~

~~sion Offset Ruling, as of May 1, 2012,)) (in effect on the date in WAC 173-400-025) 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 C.F.R. 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.

AMENDATORY SECTION (Amending WSR 12-24-027, filed 11/28/12, effective 12/29/12)

**WAC 173-400-930 Emergency engines. (1) Applicability.**

(a) This section applies statewide except where a permitting authority has not adopted this section in rule.

(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 proposed to be installed as part of a new 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) Compliance with this section satisfies the requirement for new source review of emergency engines under RCW 70.94.152 and chapter 173-460 WAC.

(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.

(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 C.F.R. (~~(Part))~~ 89.112 Table 1 and 40 C.F.R. (~~(Part))~~ 1039.102 Tables 6 and 7 (in effect on the date in WAC 173-400-025), 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 bio-diesel, 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.