



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

# **Preliminary Cost-Benefit and Least Burdensome Alternative Analyses**

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*Chapter 173-400 WAC*

*General Regulation for Air Pollution Sources*

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# **Preliminary Cost-Benefit and Least Burdensome Alternative Analyses**

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

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## **Executive Summary**

The Department of Ecology's (Ecology) proposed amendments to the General Regulation for Air Pollution Sources (Chapter 173-400 WAC) offer a net benefit to social and business welfare.

The vast majority of the proposed amendments are exempt from analysis because they are considered "housekeeping" amendments or the amendments are mandated by the Environmental Protection Agency (EPA). Therefore, Ecology concentrated this analysis on the requirements of the rule that cover:

- Non-road engines
- Relocation of portable sources
- Emergency engines

Due to the lack of reliable data on how many firms fall into each category, Ecology was not able to quantify the total benefits that come from the proposed rule amendments. However, the benefits are greater than zero.

The proposed rule amendments for non-road engines, relocation of portable sources, and emergency engines do not impose additional costs, instead these amendments are expected to relieve some of the regulatory burden on users.

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

## **I. Conclusion**

Ecology determines that the benefits of the proposed rule are greater than the costs and that the Washington State Department of Ecology (Ecology) is proposing the least burdensome alternative of the rule.

## **II. Purpose of Analysis**

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

## **III. Background**

### **History of existing rule**

#### **Washington Clean Air Act Chapter 70.94 RCW**

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

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

#### **General Air Pollution Regulations and New Source Review**

To protect air quality in the state, Washington’s Clean Air Act and the rules developed to implement the requirements of the law require facilities that emit new and modified sources of air pollutants to be permitted through Ecology’s New Source Review Program.

Six air pollutants are defined as “criteria air pollutants”:

- Carbon monoxide
- Sulfur dioxide
- Ozone
- Nitrogen oxides
- Lead
- Particulate matter

These are the air pollutants the Environmental Protection Agency (EPA) has established as the National Ambient Air Quality Standards (NAAQS) to protect human health and welfare. There are many other air pollutants that are directly or indirectly hazardous to human health.

These air pollutants include a number of toxic air pollutants and greenhouse gases. These other pollutants are not part of the NAAQS and therefore are not covered in this analysis.

## **Reason for this rule proposal**

Chapter 173-400 WAC is a substantial part of the framework of Washington's program to attain and maintain the NAAQS and protect air quality. The rule includes a number of programs, such as the new source review program for major and minor sources in attainment, unclassifiable and nonattainment areas. The proposed amendments contains new elements that regulate new sources and modifications for major sources in nonattainment areas. "Nonattainment areas" are delineated areas in the state where the air does not meet the standards set by EPA.

The proposed amendments to Chapter 173-400 WAC will:

- Bring the rule inline with the EPA's current new source review requirements.
- Support Ecology's revision to the State Implementation Plan (SIP).

If this proposed rule is adopted, the state will prepare a SIP submittal package and submit it to EPA for approval. For EPA to approve revisions to the Washington SIP, Ecology's rule must meet specific requirements of the Clean Air Act and EPA rules. This includes the rules adequate to attain and maintain the NAAQS. Once EPA approves a SIP, EPA and citizens may enforce the SIP rules, requirements, and commitments in Federal court. Ecology anticipates that the SIP submittal package will include a number of local air pollution control authority rules.

## **IV. Scope of Analysis**

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

- Federal (EPA) mandates
- State (Ecology) initiatives
- "Housekeeping"

The Administrative Procedures Act (RCW 34.05.328) exempts, from this analysis, any rule amendment being proposed to meet state and federal mandates. Other proposed amendments are mandated to keep the rule in compliance with court actions taken since the rule was enacted.

Other proposed amendments are considered "Housekeeping" and are also exempted from the analysis required in RCW 34.05.328. These "housekeeping" amendments are needed to align the rules with changes that have been made to other state rules that work in concert with Chapter 173-400 WAC. Also included in the "housekeeping" amendments are references to updated supporting documents, renumbering of sections, and correcting spelling and grammar errors. A listing of these proposed changes appears in Appendix A.

The proposed amendments analyzed in this report are:

- Non-road engines

- Relocation of portable sources
- Emergency engines

## V. Comparison of the Current and Proposed Rules

The General Regulation for Air Pollution Sources (Chapter 173-400 WAC) contains many requirements that cover:

- New source review requirements
- Adoption of federal new source performance standards, emission guidelines, and national emission standards for hazardous air pollutants
- Unavoidable excess emissions
- Permitting of stationary sources of air pollution
- Stationary source permitting: Nonattainment new source review
- Permitting and operation of portable sources and non-road engines
- Relocation of portable sources
- Emergency engines

### New Source Review Requirements

The current rule requires permitting of new and modified sources of air pollution and defines levels of criteria air pollutants that are exempt from minor new source review requirements. Sources that emit below the levels are exempt from program requirements for criteria air pollutants. The current rule contains exemption limits (essentially de minimis limits) for:

- Carbon monoxide
- Nitrogen oxides
- Sulfur dioxide
- Total suspended particulates
- Lead
- Fine particulate PM-10
- Volatile organic compounds

The proposed rule adds leveled minimis emission rates for fine particulate PM-2.5 and for greenhouse gases. New sources would be required to calculate emissions rates for emissions of criteria pollutants and compare them to the de minimis emission rates. If all emissions are below the de minimis rates, then the project would be exempt from registration program requirements.

Washington's proposed greenhouse gas de minimis emission rate of 75,000 tons per year, expressed as CO<sub>2</sub>e, is comprised of the following greenhouse gases:

- Carbon dioxide (CO<sub>2</sub>)
- Methane (CH<sub>4</sub>)
- Nitrous oxide (N<sub>2</sub>O)
- Hydrofluorocarbons (HFCs)
- Perfluorocarbons (PFCs)
- Sulfur hexafluoride (SF<sub>6</sub>)

- Any other gas or gases designated by Ecology in WAC 173-441.

In addition to adding de minimis emission rates, the proposed rule also changes what section of the rule a source uses to determine which permitting requirements a project is subject to. The proposed rule also separates the applicability requirements contained in WAC 173-400-110 from the permit application processing requirements now contained in that section to a new section WAC 173-400-111.

These changes are in response to EPA mandates and are exempt from the current analysis.

### **Adoption of New Source Performance Standards, Emission Guidelines and National Emission Standards for Hazardous Air Pollutants**

The current rule incorporates a large number of federal performance standards by reference. The proposed rule updates the incorporation by reference date of these standards. An exception is for certain regulations covering hazardous air pollutants emitted by area sources of emissions. Ecology is not adopting most of these area source hazardous air pollutant emission standards. Those that are being proposed for adoption are in response to EPA mandates and are exempt from the current analysis.

### **Unavoidable excess Emissions**

In 1982 and 1999, EPA issued policy memos regarding excess emissions (those emissions greater than any applicable emission standard or limitation) that may occur during maintenance, startup, and shutdown activities. State law also includes a requirement to excuse certain occurrences of these excess emissions. The current regulation contains provisions that conform to the state law and the 1982 EPA guidance. In this proposed rule, Ecology is proposing to delete the current section on excess emissions, WAC 173-400-107, and replace it with two new sections that conform to the 1999 EPA guidance, WAC 173-400-108 and 109, to address EPA's concerns with the current rule section. The replacement unavoidable excess emissions sections do not come into effect until EPA adopts them into the SIP as a replacement for the current section.

These changes are in response to EPA mandates and are exempt from the current analysis.

### **Stationary Source Permitting: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule**

The current rule adopts, by reference, some of the sections of the federal Prevention of Significant Deterioration (PSD) program. The current rule is based on the the Federal Implementation Plan rule language effective in 2007.

The proposed rule updates the adoption by reference date to specifically include the PSD program aspects of the "Tailoring Rule" and to include PSD increments.

EPA's greenhouse gas emission rate thresholds "tailor" the permit program's applicability to limit which facilities would be required to obtain new source review and Title V permits and would cover nearly 70 percent of the national greenhouse gas emissions that come from stationary sources, including those from the nation's largest emitters - power plants, refineries, and cement production facilities.

If the proposed rule is adopted, Ecology anticipates submitting the state PSD program rule sections to EPA for approval into the SIP, eliminating the existing delegated PSD permitting program.

These changes are in response to EPA mandates and are exempt from the current analysis.

### **Stationary Source Permitting: Nonattainment New Source Review**

The current rule text in section WAC 173-400-112 covers permitting of sources located in nonattainment areas. The proposed rule deletes this entire section and replaces it with sections WAC 173-400-800 – 850. The new sections conform with the EPA program requirements.

When there were no nonattainment areas in Washington, there was no reason to update these nonattainment area permitting provisions. Since there is now the Wapato Hills nonattainment area, this rule revision is an important segment of the state implementation plan that Ecology will submit to EPA.

These changes are in response to EPA mandates and are exempt from the current analysis.

### **Non-road Engines**

The current rule addresses the approval to locate and operate non-road engines under the provisions for portable and temporary sources. The existing text in WAC 173-400-035 would be replaced in its entirety with a new section addressing the operations of non-road engines. This subsection would not change the definition of what a nonroad engine is, but would make it clear that within Washington State, only certain types of non-road engines are regulated. It would also clarify that within Washington the regulatory authority over non-road engines is limited.

The purpose of this provision is twofold. First it would bring the rule into compliance with the authority granted in state law to regulate emissions from sources as limited by the Federal Clean Air Act. Second, it would ease the regulatory burden on applicants. Applicants would no longer be required to notify air agencies of non-road engines with a cumulative brake horse power equal to or less than 500 BHP. For facilities with a cumulative brake horsepower between 500 and 2,000 BHP, notification and record keeping would be required, but no permitting would be needed.

For facilities with a cumulative brake horsepower of non-road engines greater than 2,000 BHP, the applicant would need to notify the local permitting authority of their intent to operate, but the review period and review criteria would be limited.

### **Relocation of Portable Sources**

WAC 173-400-036, Relocation of Portable Sources, is a new regulatory provision introduced in this proposed rule. The purpose of this section is to allow stationary portable sources to move from the jurisdiction of one air agency to the jurisdiction of another air agency without having to acquire a new notice of construction.

Local permitting authorities are not required to participate in the relocation program and may continue to require a new permit or approval when a portable source operates in their jurisdiction. Likewise, applicants may always choose to obtain a new permit instead of transferring an existing permit to a new location.

The intent of this provision is to ease the regulatory burden on applicants while still protecting air quality. Relocation would be allowed within fifteen days after the applicant gives notice. This can get a piece of equipment on the job weeks sooner than if a new permit is required.

### **Emergency Engines**

WAC 173-400-930, Emergency Engines, is a new regulatory provision introduced in this proposed rule. It allows for unlimited use of certified emergency generators and engines during emergencies, however the hours used to maintain and test each engine can not exceed fifty hours per year.

This provision would establish an alternative to Second Tier Review for the installation of certified diesel-powered emergency generators. The purpose is to limit the health impacts of emergency generator emissions while reasonably assuring the protection of human health. If the requirements of this rule section do not fit a particular situation, the option of applying for a Second Tier Review would always be available.

If a source owner or operator meets the requirements of WAC 173-400-930 the time and cost to install the emergency engines would be reduced. The standard review procedure for engines with toxic air pollutant emissions in excess of the Acceptable Source Impact Level (ASIL) is a site specific Second Tier Review, a process that can take several months and cost thousands of dollars to complete. Ecology has set parameters that would allow for the installation of emergency engines without requiring a site specific Second Tier Review. These parameters assure the protection of human health and reduce the permitting burden on both sources and permitting agencies.

## **VI. Baseline for Analysis**

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

## VII. Analysis of Costs & Benefits

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

- Non-road engines
- Relocation of portable sources
- Emergency engines

### Costs

The proposed amendments related to non-road engines, relocation of portable sources, and emergency engines do not impose additional costs, instead these changes are expected to relieve some of the regulatory burden on users.

### Benefits

The benefits from the proposed rule amendments that govern non-road engines, relocation of portable sources, and emergency engines will be dealt with individually.

#### Non-road engines

Non-road engines were previously subject to the regulations governing portable and temporary sources, regardless of the size of the engine. By lessening the burden on smaller engines, benefits are created. These benefits include:

No longer being required to have a permit for engines smaller than 2,000 BHP; and  
No longer being required to notify air agencies for engines smaller than 500 BHP.

Currently, the data on how many permitted engines fall into these categories is unreliable. However there are more than zero.

#### Relocation of portable sources

Currently, when relocating a portable source, a new notice of construction is required. The proposed amendments will eliminate this burden for some, if not all, relocations. Because participation is optional for local permitting authorities, some may still be required to attain a new permit. Though existing data does not allow quantification of how many relocations would be affected, and the voluntary nature of the program adds further uncertainty, this proposed amendment would almost certainly create benefits for businesses wishing to relocate their sources.

#### Emergency Engines

Proposed changes to allow emergency engines to operate without Second Tier Review would create benefits in the following ways:

- No longer being subject to a Second Tier Analysis, which involves a \$10,000 filing fee, permit processing time for the source, public involvement, and potential delays in siting.
- Reduced permit processing time for the Agency.
- Increased health and safety due to the reduced siting time.

Given current data limitations, Ecology can not quantify the benefits from the proposed amendments related to emergency engines. However, they are greater than zero.

## **Net Benefits**

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

## **VIII. Least Burdensome Analysis**

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

## **Conclusion**

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

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

## **Alternatives Considered**

There are three alternatives considered:

- Do nothing
- Make only those changes necessary to bring the rule into EPA compliance
- The proposed rule revisions

### **Alternative 1: Do nothing**

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

- SIPs protect our air: SIPs play a key role in attaining good air quality and protecting citizen's health.
- SIPs are required by law: The federal Clean Air Act requires states with counties that fail to meet national ambient air quality standards to produce a SIP.
- Failure to produce a SIP has consequences: If a state fails to submit or implement a SIP, or if it submits a SIP that is unacceptable to the EPA, the EPA has the power to impose a federal implementation plan with sanctions or other penalties. Typical sanctions include cutting off federal funds and setting more stringent pollution offsets

for certain emitters. Offsets are the reduction of current emissions at a rate equal to or greater than the amount of emissions expected to be produced in a new project.

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

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

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

### **Alternative 3: Proposed rule revisions**

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

In particular, the following amendments are expected to reduce the burden of compliance with this rule:

#### ***Relocation Program for Portable Sources***

The existing (baseline) rule is silent on the concept of allowing portable sources to move from the jurisdiction of one permitting authority to the jurisdiction of another permitting authority without applying for a notice of construction. With the addition of this program, a portable source has the option of relocating across the state without obtaining a new notice of construction. This program is intended to save businesses several weeks of time that would have been spent in permit review, as well as the costs for preparing and submitting the application.

#### ***Non-road engines***

This element is not required by federal regulation. This section creates a regulatory de minimis level for non-road engines and an easy to execute notification process for engines between 500 and 2,000 brake horsepower. This regulatory program is designed to work for Washington business and regulators.

#### ***Emergency engines***

Under the proposed rule specifications for emergency engine operation, Ecology expects that permit applicants can reduce regulatory compliance costs, while still complying with emissions standards for human health in the area.

#### ***Housekeeping***

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

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

## Appendix A: Rule Amendments

Existing rule language	New rule language	Change and analysis
<b>Common changes made throughout the rule.</b>		
<b>Which</b>	That	Throughout the definition section, <i>that</i> has been substituted for <i>which</i> in compliance with the grammatical precept that <i>which</i> introduces nonessential clauses while <i>that</i> precedes essential clauses.
<b>Shall</b>	Must, can will	Throughout the rule <i>shall</i> has been replaced with <i>must</i> , as appropriate. This phrase, “has a duty to” was used to test whether it was appropriate to retain shall or substitute another verb.
<b>Ecology and the authority</b>	Permitting authority	Permitting authority, a defined term, has been substituted for ecology and the authority.
<b>Examples of abbreviations: Hg cfs, tpy</b>	Mercury, cubic feet per second, tons per year	Permitting authority, a defined term, has been substituted for ecology and the authority.
<b>Various dates</b>	July 1, 2010	Several abbreviations are spelled out to increase readability.  Throughout the rule, dates referencing the code of federal regulations have been updated to July 1, 2010. This references the most

Existing rule language	New rule language	Change and analysis
<p data-bbox="249 443 611 513"><b>Example of table name: (d) Exemption level table</b></p> <p data-bbox="249 597 730 667"><b>Appeal language references chapter 43.21B RCW</b></p>	<p data-bbox="831 443 1209 475">Table 110(5) Exemption level</p> <p data-bbox="831 560 1104 592">Chapter 371-08 WAC</p>	<p data-bbox="1413 289 1902 475">recent compilation of Title 40 of the federal code. Subsection 400-720 is a significant exception to this update. The reasoning is explained in the 720 section.</p> <p data-bbox="1413 521 1902 630">Other dates have been changed to reference the most recent publication dates of Ecology documents.</p> <p data-bbox="1413 675 1902 784">Throughout the document several tables have been renamed to increase readability.</p> <p data-bbox="1413 829 1902 1016">Inserted references throughout the document to chapter 371-08 WAC as it provides information on the rules of practice before the pollution control hearings board.</p>
<p data-bbox="249 1065 478 1097"><b>173-400-030 (14)</b></p>	<p data-bbox="831 1105 1325 1325"><b>“Brake horsepower (BHP)”</b> means the measure of an engine's horsepower without the loss in power caused by the gearbox, alternator, differential, water pump, and other auxiliary components.</p>	<p data-bbox="1413 1105 1902 1292">New definition. While the term “brake horsepower” is not new to the rule, previously it was not defined. The addition clarifies the rule implementation.</p>

Existing rule language	New rule language	Change and analysis
<p><b>173-400-030(42)</b></p>	<p><b>“Greenhouse gases (GHGs)”</b> means the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.</p>	<p>New definition. As a companion change under state law to EPA’s major source permitting “tailoring Rule” Ecology is proposing a de minimus annual emissions threshold for minor source permitting in subsection 110. This definition is not significantly different than the definition adopted by the EPA, <i>Greenhouse gas, or GHG, means carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs).</i></p>
<p><b>173-400-030(52)</b></p> <p><b>"New source" means:</b></p> <p><b>(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and</b></p> <p><b>(b) Any other project that</b></p>	<p><b>173-400-030(54)</b></p> <p><b>"New source" means:</b></p> <p><b>(a) The construction, installation, establishment, or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and</b></p>	<p>Inserted: “establishment, or modification”.</p> <p>Analysis: The intent of this addition is to clarify what activities should be reviewed to see if they result in an increase in air emissions and better reflect the terms used in RCW 70.94.152. This change makes the</p>

Existing rule language	New rule language	Change and analysis
<p><b>constitutes a new source under the Federal Clean Air Act.</b></p>	<p>(b) Any other project that constitutes a new source under the Federal Clean Air Act.</p>	<p>rule version of the definition different than the definition in RCW 70.94.030.</p>
<b>173-400-030(71)</b>		
	<p><b>"PM-2.5"</b> means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.</p>	<p>New definition for a pollutant newly listed by the EPA. Ecology must regulate PM2.5 to comply with federal air quality standards.</p>
<b>173-400-030(72)</b>		
	<p><b>"PM-2.5 emissions"</b> means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 53 or by a test method specified in the SIP.</p>	<p>New definition for a pollutant newly listed by the EPA. Ecology must regulate PM2.5 to comply with federal air quality standards.</p>
<b>173-400-030(73)</b>		

Existing rule language	New rule language	Change and analysis
	<p>“Portable source” is a type of stationary source which emits air contaminants only while at a fixed location but which is capable of being transported to various locations. Examples include a portable asphalt plant or a portable package boiler.</p> <p>.</p>	<p>New definition to implement the new rule section, WAC 173-400-036 Relocation of portable sources.</p>
<p><b>173-400-030(74)</b>  <b>"Regulatory order" means an order issued by ecology or permitting authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for sources regulated by a local air authority, the regulations of that authority.</b></p>	<p><b>173-400-030(79)</b>  “Regulatory order” means an order an issued by an air permitting authority that requires compliance with:  (a) Any applicable provision of chapters 70.94, 80.70 and 80.80 RCW or rules adopted to implement those laws; or  (b) Local air authority regulations for sources regulated by that air authority.</p>	<p>Analysis: Two applicable RCWs were added to the definition, Ch. 80.80 RCW Greenhouse gases emissions — baseload electric generation performance standard and Ch.80.70 RCW Carbon dioxide mitigation.</p> <p>The sentence was edited for clarity.</p>
<p><b>173-400-030(85)</b>  <b>"Temporary source" is a source of emissions (such as a nonroad engine) which is operated at a particular site for a limited period of time. A temporary source may or may not be a stationary source or a source as</b></p>		<p>Deleted this definition as the term is no longer used in WAC 173-400.</p>

Existing rule language	New rule language	Change and analysis
<p><b>defined in subsections (76) and (82) of this section, respectively.</b></p>		
<p><b>173-400-030(88)</b></p> <p>"Toxic air pollutant (TAP)" or "toxic air contaminant" means any Class A or B toxic air pollutant listed in WAC <a href="#">173-460-150</a> and <a href="#">173-460-160</a>. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC <a href="#">173-460-150</a> and/or <a href="#">173-460-160</a>. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.</p>	<p>173-400-030(93)</p> <p>"Toxic air pollutant (TAP)" or "toxic air contaminant" means any toxic air pollutant listed in WAC 173-460-150. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.</p>	<p>Deleted "Class A of B" as this term is no longer used in WAC 173-460.</p> <p>Subsection 173-460-160 has been deleted from Ch. 173-460 WAC.</p>
<p><b>173-400-030(92)</b></p>	<p>173-400-030(97)</p>	

Existing rule language	New rule language	Change and analysis
<p><b>"Volatile organic compound (VOC)" means any carbon compound that participates in atmospheric photochemical reactions.</b></p> <p><b>(a) Exceptions. The following compounds are not a VOC: ... methyl acetate and perfluorocarbon compounds that fall into these classes:</b></p> <p><b>(i) Cyclic, branched, or linear completely fluorinated alkanes;</b></p> <p><b>(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;</b></p> <p><b>(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and</b></p> <p><b>(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.</b></p>	<p><b>"Volatile organic compound (VOC)" means any carbon compound that participates in atmospheric photochemical reactions.</b></p> <p>(a) Exceptions. The following compounds are not a VOC: ... methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3 or HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate (HCOOCH3); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); dimethyl carbonate; propylene carbonate; tertiary-butyl acetate; and perfluorocarbon compounds that fall into these classes: (i) Cyclic, branched, or linear completely fluorinated alkanes; (ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; (iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and</p>	<p>Ecology added the following compounds to keep the definition current with EPA's definition: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3 or HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate (HCOOCH3); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); dimethyl carbonate; propylene carbonate; tertiary-butyl acetate.</p>

Existing rule language	New rule language	Change and analysis
	(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.	
<b>DELETED RULE LANGUAGE WAC 173-400-035</b>		<b>CHANGE AND ANALYSIS</b>
<p><b>Portable and temporary sources.</b></p> <p><b>(1) For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set</b></p>		<p>The text in subsection 035 was deleted as it conflicted with EPA requirements that new sources, whether located in a permanent site or a short term location are subject to new source review.</p> <p>The concept of “temporary source” has been removed from the rule as the use of that term confused the issue. New source review criteria are</p>

Existing rule language	New rule language	Change and analysis
<p>specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards. A temporary or portable source that is considered a major stationary source within the meaning of WAC 173-400-113 must also comply with the requirements in WAC 173-400-141.</p> <p>(2) This section applies statewide except where an authority has its own rule regulating such sources.</p> <p>(3) Fees relating to this section can be found in chapter 173-455 WAC.</p>	<p><b>NEW RULE LANGUAGE WAC 173-400-035 Nonroad engines.</b></p> <p><b>(1) Applicability.</b> This section applies to any nonroad engines, except for:</p> <p><b>(a) Any nonroad engine that is:</b></p> <p><b>(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function; or</b></p> <p><b>(ii) In or on a piece of equipment that is intended to be propelled while performing its function.</b></p> <p><b>(b) Non-road engines with a cumulative maximum rated brake horsepower of 500 BHP or less.</b></p> <p><b>(c) Non-road engines used to propel a motor vehicle or a vehicle used solely for competition, or subject to standards promulgated under section 202 of the Federal Clean Air Act.</b></p> <p><b>(d) Engines regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act.</b></p>	<p>not correlated to the length of time a source operates, but rather the quantity and type of air emissions.</p> <p>Portable sources are now clearly regulated in WAC 173-400-110 with criteria for relocation in WAC 173-400-036.</p>
		<p><b>CHANGE AND ANALYSIS</b></p> <p>This new nonroad engine subsection brings Washington’s rule into compliance with EPA’s regulations and introduces a regulatory program that protects air quality without placing a burden on local business and industry.</p> <p>(1)(a) This new section clearly states which non-road engines are subject to regulation. At times, past implementation practices varied from the regulatory authority. With the new language implementation and regulation should be uniform and in compliance with EPA regulations.</p>

Existing rule language	New rule language	Change and analysis
	<p><b>(e) Engines that remain or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year.</b></p>	<p>(b) This exemption level matches the existing exemption in WAC 173-400-110. This increases consistency throughout the rule.</p> <p>(c) This exemption recognizes regulatory limits set by the EPA.</p> <p>(d) This exemption recognizes regulatory limits set by the EPA.</p> <p>(e) This exemption makes it clear that seasonal sources are not regulated as non-road engines in compliance with EPA regulations.</p>
<p><b>NEW RULE LANGUAGE 173-400-035 (2)</b>  <b>Non-road engines are not subject to:</b>  <b>(a) New source review.</b>  <b>(b) Control technology determinations.</b>  <b>(c) Emission limits set by the state implementation plan, SIP.</b></p>		<p>These criteria have been located in the nonroad engine definition. This new language makes it clear that the scope of non-road engine permit conditions is limited.</p>
<p><b>NEW RULE LANGUAGE 173-400-035 (3)</b>  <b>Non-road engines with a cumulative maximum rated brake horsepower greater than 500 BHP and less than or equal to 2000 BHP.</b>  <b>This section allows for the construction, installation, and operation of nonroad engines with a cumulative maximum rated brake horsepower greater than 500 BHP and less than or equal to 2000 BHP.</b></p>		<p>Analysis: The new nonroad engine provisions have three regulatory levels. Exemptions are listed in (1). (3) allows engines that are greater than 500 BHP and less than 2000 BHP to operate within certain guidelines.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(a) Notification of intent to operate is required before operations begin.</b>  <b>The owner must notify the permitting authority of their intent to operate prior to beginning operation. The notice must contain the following information:</b></p> <ul style="list-style-type: none"> <li><b>(i) Name and address of owner,</b></li> <li><b>(ii) Site address or location,</b></li> <li><b>(iii) Date of equipment arrival at the site,</b></li> <li><b>(iv) Cumulative engine maximum rated brake horsepower (BHP).</b></li> </ul> <p><b>(b) Record keeping.</b>  <b>At each site, the owner must record the following information for each non-road engine:</b></p> <ul style="list-style-type: none"> <li><b>(i) Site address or location.</b></li> <li><b>(ii) Date of equipment arrival at the site.</b></li> <li><b>(iii) Date of equipment departure from the site.</b></li> <li><b>(iv) Engine function or purpose.</b></li> <li><b>(v) Identification of each component as follows:</b> <ul style="list-style-type: none"> <li><b>(A) Equipment manufacturer, model number and its unique serial number;</b></li> <li><b>(B) Engine model year;</b></li> </ul> </li> <li><b>(vi) Type of fuel used with fuel specifications (sulfur content, cetane number, etc.).</b></li> </ul> <p><b>(c) Record retention requirements.</b>  <b>The owner must keep on-site the records of the current engine and equipment activity. The owner may keep all other records at the main office. Records must be kept for at least three years and be readily available to the permitting authority on request.</b></p> <p><b>(d) Fuel standards.</b></p>		<p>These guidelines assure that air quality standards will be met. If the proposal does not fit within these guides, the option of obtaining a project specific review is available.</p> <p>Standardized requirements are established to facilitate compliance monitoring. Notification, record keeping, and specific fuel standards are required.</p>

Existing rule language	New rule language	Change and analysis
<p>All nonroad engines must use ultra low sulfur diesel or ultra low sulfur bio-diesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG).</p>		
<p><b>NEW RULE LANGUAGE WAC 173-400-035(4)</b></p>		
<p><b>Non-road engines with a cumulative maximum rated brake horsepower greater than 2000 BHP.</b></p> <p><b>This section allows for the construction, installation, and operation of any nonroad engine with a cumulative maximum rated brake horsepower greater than 2000 BHP.</b></p> <p><b>(a) Notification of intent to operate.</b>  <b>Prior to operation, the owner or operator must notify the permitting authority of the intent to operate and supply sufficient information to enable the permitting authority to determine that the operation will comply with national ambient air quality standards as regulated by WAC 173-400-113(3) and (4).</b></p> <p><b>(b) Approval is required before operations begin.</b>  <b>The owner must obtain written non-road engine approval to operate, from the permitting authority, prior to operation.</b></p> <p><b>(c) Record keeping. The owner must meet all of the requirements of 3(b) and (c), above.</b></p> <p><b>(d) Integrated review.</b>  <b>Applicants seeking approval to construct or modify a source that requires review under WAC 173-400-110 or WAC 173-400-560 that includes the review of</b></p>		<p>Subsection 173-400-035(4) regulates engines greater than 2000 BHP. The rate of emissions from these engines requires a project specific permit to demonstrate compliance with air quality standards.</p> <p>Standardized requirements are established to facilitate compliance monitoring. Notification, record keeping, and specific fuel standards are required.</p> <p>Time frames are set for the permit review. This provides predictability for the applicant.</p>

Existing rule language	New rule language	Change and analysis
<p>nonroad engines may elect to integrate the reviews. A nonroad engine notification designated for integrated review must be processed in accordance with the ambient air quality and public involvement procedures in WAC 173-400-111.</p> <p>(e) Fuel standards. All nonroad engines must use ultra low sulfur diesel or ultra low sulfur bio-diesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG).</p> <p>(f) Enforcement. All persons who receive a non-road engine approval to operate must comply with all conditions contained in the approval.</p> <p>(g) Permitting authority review period. Within 15 days after receiving a complete notice of intent to operate, the permitting authority must either issue the approval to operate or notify the applicant that operation must not start until the permitting authority has set specific operating conditions. The permitting authority must promptly provide copies of the final decision to the applicant.</p> <p>(h) Conditions to assure compliance with NAAQS. The permitting authority may set specific conditions for operation as necessary to ensure compliance with national ambient air quality standards as regulated by WAC 173-400-113(3) and (4).</p> <p>(i) Appeals.</p>		

Existing rule language	New rule language	Change and analysis
<p>Final decisions and orders of ecology or a permitting authority may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW and chapter 371-08 WAC.</p> <p>(j) Change of conditions. The owner or operator may request, at any time, a change in conditions of an approval to operate. The permitting authority may approve the request provided that the permitting authority finds that the operation will comply with WAC 173-400-113(3) and (4).</p>		
<p><b>NEW RULE LANGUAGE WAC 173-400-036 Relocation of portable sources.</b></p>		
<p><b>(1) Applicability.</b></p> <p><b>(a) Portable sources that meet the requirements of this section may relocate and operate without obtaining a site-specific or permitting authority-specific order of approval. The owner/operator of a portable source may file a new notice of construction application in compliance with WAC 173-400-110 each time they relocate in lieu of participating in the cross-jurisdictional provisions in this section.</b></p> <p><b>(b) Permitting authority participation in the cross-jurisdictional provisions of this section is optional. This section applies only in those jurisdictions where the permitting authority has adopted it. Nothing in this section affects a permitting authority's ability to enter into an agreement with another permitting authority to allow cross-jurisdictional relocation of a portable source under conditions other than those listed here except that Subsection (2) of this section applies statewide.</b></p> <p><b>(2) Portable sources in non-attainment areas. If a portable source is locating in a non-attainment area and if the source emits the pollutants or pollutant precursors for which the area is classified as non-attainment, then the source</b></p>		<p>New section. This new provision increases the ability of portable sources to move across jurisdictional borders within the state. It sets the parameters for a permit issued by one authority to be recognized and valid in another authority's jurisdiction. This provision reduces permitting time and costs while it maintains air quality standards.</p>

Existing rule language	New rule language	Change and analysis
<p>must acquire a site-specific order of approval. The order of approval must be issued by the permitting authority with jurisdiction over the nonattainment area in which the portable source wishes to locate.</p> <p>(3) Relocation requirements. Portable sources are allowed to operate at a new location without obtaining an order of approval from the permitting authority with jurisdiction over the new location provided that:</p> <p>(1) A permitting authority in Washington state issued a notice of construction order of approval for the portable source after July 1, 2010, identifying the emission units as a “portable source”;</p> <p>(2) The owner/operator of the portable source submits a relocation notice and a copy of the applicable portable source order of approval to the permitting authority with jurisdiction over the intended operation location a minimum of fifteen calendar days before the portable source begins operation at the new location;</p> <p>(3) The owner/operator submits the emission inventory required by WAC 173-400-105 to each permitting authority in whose jurisdiction the portable source operated during the preceding year. The data must be sufficient in detail to calculate the emissions within each permitting authority’s jurisdiction and the yearly aggregate.</p> <p>(4) Enforcement of the order of approval. The permitting authority with jurisdiction over the location where a portable source is operating has authority to enforce the conditions of the order of approval that authorizes the portable source operation, regardless of which permitting authority issued the order of approval. All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.</p> <p>(5) Change of conditions to orders of approval. To change the conditions in an order of approval, the owner/operator must obtain a new order of approval from the permitting authority with jurisdiction over the portable source.</p>		

Existing rule language	New rule language	Change and analysis
<p><b>(6) Portable source modification. Prior to commencing construction or installation of a modification of a portable source, the owner/operator must obtain a new order of approval from the permitting authority with jurisdiction over the portable source.</b></p>		
<p><b>173-400-040 General standards for maximum emissions.</b></p>		
<p><b>(2) Visible emissions.</b>  <b>(i) Visible emissions reader certification testing.</b>  <b>(ii) Visible emissions resulting from military obscurant training exercises is exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:</b>  <b>(iii) 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.</b></p>	<p>173-400-040 (2)(e)            (i) <u>Opacity</u> certification testing.            (ii) <u>Military training exercises</u>. Visible emissions resulting from military obscurant training exercises are exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:            (iii) <u>Fire fighter training</u>. 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.</p>	<p>Subsection titles added to improve readability.</p>
<p><b>173-400-040 (4)</b>  <b>Odors. Any person who shall cause or allow the generation of any odor from any source which may</b></p>	<p>173-400-040 (5)            Odors. Any person who shall cause or allow the generation of any odor from any source or activity which may</p>	<p>New text: “or activity” expands the applicability of the odor provision and enforcement authority to include not</p>

Existing rule language	New rule language	Change and analysis
<p><b>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.</b></p>	<p>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</p>	<p>just sources, but also activities that generate odors.</p>
<p><b>173-400-040 (8)</b></p>	<p>173-400-040 (9)</p>	
<p><b>Fugitive dust.</b>  <b>(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.</b></p> <p><b>(b) The owner or operator of any existing source of fugitive dust that has been identified as a significant contributor to a PM-10 nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by the criteria found in WAC 173-400-113 (2)(c).</b></p>	<p>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.</p> <p>(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 (2)(c).</p>	<p>New text: "or activity" expands the applicability of the odor provision and enforcement authority to include not just sources, but also activities that generate dust.</p> <p>New text "PM2.5" expands the rule applicability to include a previously unregulated pollutant. The EPA finds that areas of Washington state are out of compliance with federal air quality standards for PM 2.5. Washington air quality regulations must be at least as protective of air quality as are the federal regulations. The addition of this language brings the state into compliance with EPA standards.</p>
<p><b>173-400-050 Emission standards for</b></p>	<p>173-400-050 Emission standards for</p>	

Existing rule language	New rule language	Change and analysis
<p><b>combustion and incineration units. Subsection (1), (2), and (2)(b).</b></p> <p><b>Source Test Manual - Procedures For Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.</b></p>	<p>combustion and incineration units. Subsection (1), (2), and (2)(b).</p> <p><i>"Source Test Manual - Procedures For Compliance Testing,"</i> state of Washington, department of ecology, as of September 20, 2004, on file at ecology.</p>	<p>The date change acknowledges the most recent version of the manual.</p>
<p><b>173-400-050(3)</b></p> <p><b>Measured concentrations for combustion and incineration units shall be adjusted for volumes corrected to seven percent oxygen, except when ecology or the authority determines that an alternate oxygen correction factor is more representative of normal operations.</b></p>	<p>173-400-050(3)</p> <p>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 based on manufacturers' specifications.</p>	<p>The addition of new text, "based on manufacturers' specifications" establishes boundaries for when the permitting authority can authorize adjustment of the oxygen mix. This addition standardizes implementation and provides predictability for applicants.</p>
<p><b>173-400-050(4)</b></p> <p><b>Commercial and industrial solid waste incineration units constructed on or before November 30, 1999. (See WAC 173-400-115(2) for the requirements for a commercial and industrial solid waste incineration unit constructed after November 30, 1999, or modified or reconstructed</b></p>	<p>173-400-050(4)</p> <p>Commercial and industrial solid waste incineration units constructed on or before November 30, 1999.</p>	<p>Deleted: (See WAC 173-400-115(2) for the requirements for a commercial and industrial solid waste incineration unit constructed after November 30, 1999, or modified or reconstructed after June 1, 2001.)</p>

Existing rule language	New rule language	Change and analysis
after June 1, 2001.)		This language was deleted as it is no longer applicable. The triggering dates are past. At this point in time, the June 1, 2001 date is not relevant.
<b>173-400-050(5)</b> <b>(5) Small municipal waste combustion units constructed on or before August 30, 1999. (See WAC 173-400-115 (2) for the requirements for a municipal waste combustion unit constructed after August 30, 1999, or reconstructed or modified after June 6, 2001.)</b>	<b>173-400-050(5)</b> <b>(5) Small municipal waste combustion units constructed on or before August 30, 1999.</b>	Deleted text: (See WAC 173-400-115 (2) for the requirements for a municipal waste combustion unit constructed after August 30, 1999, or reconstructed or modified after June 6, 2001.)  This language was deleted as it is redundant. The federal requirements are adopted by reference in subsection 400-115(2).
<b>173-400-050(5) (g) (ii) (D)</b> <b>(ii) Exception to adopting the federal rule. For purposes of this section, each reference to the following is amended in the following manner:</b> <b>(D) Table 1 in (h)(ii) of this subsection substitutes for Table 1 in the federal rule.</b>		Deleted text: (D) Table 1 in (h)(ii) of this subsection substitutes for Table 1 in the federal rule.  The table has been deleted. The dates listed in the table have passed and

Existing rule language	New rule language	Change and analysis																																																																														
		<p>the information was easily stated in a phrase. Existing source compliance with WAC 173-400-050(5) has been achieved.</p>																																																																														
<p><b>173-400-050(5) (h) (ii)</b>  <b>(ii) Small municipal waste combustion units must comply with Table 1.</b></p>	<p>173-400-050(5) (h) (ii)  (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.</p>	<p>Inserted text:  “achieve compliance by May 6, 2005 for all Class II units, and by November 6, 2005 for all Class I units.”</p>																																																																														
<table border="1" data-bbox="222 743 716 1360"> <thead> <tr> <th colspan="6">Table 1 Compliance Schedules and Increments of Progress</th> </tr> </thead> <tbody> <tr> <td></td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> <td>I</td> </tr> <tr> <td></td> <td>n</td> <td>n</td> <td>n</td> <td>n</td> <td>n</td> </tr> <tr> <td></td> <td>c</td> <td>c</td> <td>c</td> <td>c</td> <td>c</td> </tr> <tr> <td></td> <td>r</td> <td>r</td> <td>r</td> <td>r</td> <td>r</td> </tr> <tr> <td></td> <td>e</td> <td>e</td> <td>e</td> <td>e</td> <td>e</td> </tr> <tr> <td></td> <td>m</td> <td>m</td> <td>m</td> <td>m</td> <td>m</td> </tr> <tr> <td></td> <td>e</td> <td>e</td> <td>e</td> <td>e</td> <td>e</td> </tr> <tr> <td></td> <td>n</td> <td>n</td> <td>n</td> <td>n</td> <td>n</td> </tr> <tr> <td></td> <td>t</td> <td>t</td> <td>t</td> <td>t</td> <td>t</td> </tr> <tr> <td></td> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> <tr> <td></td> <td>(</td> <td>(</td> <td>(</td> <td>(</td> <td>(</td> </tr> <tr> <td></td> <td>S</td> <td>C</td> <td>C</td> <td>C</td> <td>F</td> </tr> </tbody> </table>	Table 1 Compliance Schedules and Increments of Progress							I	I	I	I	I		n	n	n	n	n		c	c	c	c	c		r	r	r	r	r		e	e	e	e	e		m	m	m	m	m		e	e	e	e	e		n	n	n	n	n		t	t	t	t	t		1	2	3	4	5		(	(	(	(	(		S	C	C	C	F		<p>Deleted text:  “must comply with Table 1.”</p> <p>Deleted Table 1 in its entirety.</p> <p>Analysis: The dates listed in the table have passed and the information was easily stated in a phrase. . Existing source compliance with WAC 173-400-050(5) has been achieved.</p>
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<b>WAC 173-400-070 (1)</b>						<b>WAC 173-400-070 (1)</b>	
<b>(1) Wigwam burners.</b>						(1) Wigwam and silo burners	The words “wigwam burners” was
<b>(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), (7), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.</b>						(a) All wigwam, silo burners, and equivalent above-ground devices designed to dispose of wood waste must meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), (7), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable..	expanded to include “silo burners and equivalent above-ground devices designed to dispose of wood waste”. No new facilities will be brought into regulation. The new sentence sets limits on the types of equipment captured by this rule.
<b>(b) All wigwam burners shall 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</b>						(b) All wigwam, silo burners and equivalent above-ground devices designed to dispose of wood waste must use RACT. All emissions units shall be operated and maintained to minimize emissions. These	The change was also made in (1)(d) and (1)(d)(i).

Existing rule language	New rule language	Change and analysis
<p>system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the permitting authority.</p>	<p>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.</p>	
<p><b>173-400-075 (5)</b>  <b>Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Parts 61 or 63, 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.</b></p>	<p><b>173-400-075 (5)</b>  EPA can delegate its authority to a permitting authority to receive reports for one or all of these federal rules. Do not send a duplicate report to EPA if EPA delegated authority to your permitting authority for the rule you are reporting under. EPA or your permitting authority will tell you if you need to send a duplicate report.</p>	<p>Rewritten for clarity. The regulatory authority has not changed.</p>
<p><b>WAC 173-400-075(6)</b>  <b>Maximum achievable control technology (MACT) standards. MACT standards are officially known as National Emission Standards for Hazardous Air Pollutants for Source Categories.</b></p>	<p><b>WAC 173-400-075(6)</b>  National Emission Standards for Hazardous Air Pollutants for Source Categories.</p> <p>(a) Adopt by reference.</p> <p>(i) 40 CFR Part 63 and Appendices</p>	<p>Deleted:  “Maximum achievable control technology (MACT) standards. MACT standards are officially known as”  and  “The following list of subparts to 40 CFR 63 which are shown as blank or</p>

Existing rule language	New rule language	Change and analysis
<p data-bbox="289 289 594 321"><b>(a) Adopt by reference.</b></p> <p data-bbox="249 367 743 513"><b>40 CFR Part 63 and Appendices in effect on October 1, 2006, is adopted by reference. Exceptions are listed in (6)(b) of this section.</b></p> <p data-bbox="249 558 732 862"><b>The following list of subparts to 40 CFR 63 which are shown as blank or reserved as of the date listed above, is provided for informational purposes only: Subparts K, P, V, Z, FF, NN, ZZ, AAA, BBB, FFF, KKK, SSS, WWW, YYY, ZZZ, BBBB, LLLL, and OOOO.</b></p>	<p data-bbox="831 289 1325 475">in effect on July 1, 2010, as they apply to major stationary sources of hazardous air pollutants are adopted by reference. Exceptions are listed in (6)(a)(ii) and (6)(b) of this section.</p> <p data-bbox="831 521 1299 708">(ii) 40 CFR Part 63 subparts that apply to non-major sources of hazardous air pollutants in effect on July 1, 2010, are adopted by reference:</p> <p data-bbox="831 716 1230 789">(A) Subpart EEEEE, Primary Copper Smelting;</p> <p data-bbox="831 797 1257 870">(B) Subpart FFFFF, Secondary Copper Smelting;</p> <p data-bbox="831 878 1257 951">(C) Subpart GGGGG, Primary Nonferrous Metal;</p> <p data-bbox="831 959 1257 1032">(D) Subpart SSSSS, Pressed &amp; Blown Glass Manufacturing;</p> <p data-bbox="831 1040 1278 1138">(E) Subpart YYYYY, Stainless and Non-stainless Steel Manufacturing (electric arc furnace);</p> <p data-bbox="831 1146 1304 1219">(F) Subpart EEE, Hazardous Waste Incineration;</p> <p data-bbox="831 1227 1241 1300">(G) Subpart IIII, Mercury Cell Chlor-Alkali Plants;</p> <p data-bbox="831 1308 1314 1365">(H) Subpart LLL, Portland Cement; and</p>	<p data-bbox="1419 289 1892 513">reserved as of the date listed above, is provided for informational purposes only: Subparts K, P, V, Z, FF, NN, ZZ, AAA, BBB, FFF, KKK, SSS, WWW, YYY, ZZZ, BBBB, LLLL, and OOOO.”</p> <p data-bbox="1419 558 1892 748">Analysis: It is our intent to list those subparts that we are not adopting. The listing of blank and reserved subparts was deleted because it is outdated.</p> <p data-bbox="1419 797 1902 1325">The language adopts those federal rules that apply to major sources and the nine minor source categories that are subject to the Title V program. This is the minimum required by the Title V program. The updated adoption by reference date captures revisions to thirteen major source rules. Ten area source (small source) rules are no longer adopted by reference. 58 area source rules adopted by the EPA after October, 2006, are also not adopted by reference.</p>

Existing rule language	New rule language	Change and analysis
	(I) Subpart X, Secondary Lead Smelting.	
<b>173-400-075(6)(b)(ii)(C)</b> <b>Subpart M: National Perchloroethylene Emission Standards for Dry Cleaning Facilities as it applies to nonmajor sources.</b>	173-400-075(6)(b)(ii)(C) All subparts that apply to non-major stationary sources of hazardous air pollutants except those in (6)(a)(ii) of this subsection.	Deleted: Subpart M: National Perchloroethylene Emission Standards for Dry Cleaning Facilities as it applies to nonmajor sources.
<b>173-400-075 (8)(a)(i) TABLE 1. PCE Dry Cleaner Source Categories</b>  <b>Only Dry-to-Dry Machines</b> <b>Only Transfer Machines</b> <b>Both Dry-to-Dry and Transfer Machines</b>	173-400-075 (8)(a)(i) TABLE 1. PCE Dry Cleaner Source Categories  Only Dry-to-Dry Machines Only Transfer Machines Both	Deleted: “Dry-to-Dry and Transfer Machines” Analysis: The duplicative words were eliminated. The regulatory authority has not changed.
<b>NEW RULELANGUAGE 173-400-075 (8)(a) and (b)</b>		
(a) (ii) Major sources. In addition to the requirements in this section, a dry cleaning system that is considered a major source according to Table 1 must follow the federal requirements for major sources in 40 CFR Part 63, Subpart M (in effect on July 1, 2010).  (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		Analysis: This additional language is required to keep Ecology’s regulations current with federal standards for dry cleaners.

Existing rule language	New rule language	Change and analysis
<p>residential building.</p> <p>(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.</p> <p>(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:</p> <p>(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.</p> <p>(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.</p> <p>(C) Constructed so that all joints and seams are sealed except for inlet make-up air and exhaust openings and the entry door.</p> <p>(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.</p>		
173-400-075 (8)(c)(vii) Table 2	173-400-075 (8)(c)(vii) Table 2	

Existing rule language	New rule language	Change and analysis
	<p>TABLE 2. Minimum PCE Vapor Vent Control Requirements</p> <p>Dry cleaner located in a building where people live</p> <p>Refrigerated condenser with a carbon adsorber for all machines and a vapor barrier enclosure.</p>	<p>Addition of a new column:</p> <p>“Dry cleaner located in a building where people live</p> <p>Refrigerated condenser with a carbon adsorber for all machines and a vapor barrier enclosure.”</p> <p>Analysis: This additional language is required to keep Ecology’s regulations current with federal standards for dry cleaners.</p>
<p><b>173-400-075 (8)(c)(vii) TABLE 3. Minimum Inspection Frequency</b></p>	<p><b>173-400-075 (8)(c)(vii) TABLE 3. Minimum Inspection Frequency</b></p>	
	<p>TABLE 3. Minimum Inspection Frequency</p> <p>Dry cleaner located in a building where people live</p> <p>Once a week,</p>	<p>Addition of a new column:</p> <p>“Dry cleaner located in a building where people live.”</p> <p>Analysis: This additional language is required to keep Ecology’s regulations current with federal standards for dry cleaners.</p>
<p><b>NEW RULE LANGUAGE: 173-400-075 (8)(d)(ii) TABLE 4</b></p>		
	<p><b>TABLE 4. Minimum inspection frequency using portable leak detector</b></p>	<p>Analysis: This additional language is required to keep Ecology’s</p>

Existing rule language		New rule language			Change and analysis
	Small area source	Large area source	Major source	Dry cleaner located in a building where people may live	regulations current with federal standards for dry cleaners
	Once every month.	Once every month.	Once every month.	Once every week.	

**NEW RULE LANGUAGE: 173-400-075**

**(8)(d)(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.**

Analysis: This additional language is required to keep Ecology's regulations current with federal standards for dry cleaners

**173-400-075 (8)(d)(ii)**

**(ii) An inspection must include an examination of these components for condition and perceptible leaks:**

**173-400-075 (8)(d)(iii)**

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

Addition: The subsection has been renumbered and the sentence restructured for clarity.

Existing rule language	New rule language	Change and analysis
173-400-081	173-400-081	
<p><b>In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) ecology and the authorities shall consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown. Where ecology or the authority determines that the source or source category, operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, ecology or the authority shall include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions</b></p>	<p>In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) as part of new source review the permitting authorities will consider any physical constraints on the ability of a source to comply with the applicable standard during startup or shutdown.</p> <p>Where the permitting authority, during a control technology determination, determines that the source or source category, when operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, ecology or the permitting authority must include in the standard appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during</p>	<p>Inserted language:  “as part of new source review” and  “during a control technology determination”.</p> <p>This addition makes it clear when the determination is made. This provides guidance for the permitting authority and predictability for the applicant without changing the intent or applicability of the rule. The language needs to be revised to make absolutely clear that this section only applies to requirements established in a permit or order when they are being established, and not to pre-existing requirements in a permit/order, the SIP or a federal rule. This change is required by the EPA to bring Washington’s rule into compliance with federal regulations and guidance on protecting the national ambient air quality standards.</p>

Existing rule language	New rule language	Change and analysis
	startup or shutdown conditions.	
173-400-091	173-400-091	
<p><b>(1) Upon request by the owner or operator of a source, ecology or the authority with jurisdiction over the source shall issue a regulatory order that limits the source's potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and ecology or the authority with jurisdiction over the source.</b></p> <p><b>(4) Any order issued under this section shall be subject to the notice and comment procedures under WAC 173-400-171.</b></p>	<p>(1) Upon request by the owner or operator of a new or existing source, the permitting authority with jurisdiction over the source shall issue a regulatory order that limits the source's potential to emit any air contaminant or contaminants to a level agreed to by the owner or operator and the permitting authority with jurisdiction over the source.</p> <p>(4) Any order issued under this section must comply with WAC 173-400-171.</p>	<p>Inserted language in (1) “of a new or existing source”.</p> <p>New language does not change the scope of the rule, but clarifies which sources can request a potential to emit limitation.</p> <p>Deleted language in (4): “section shall be subject to the notice and comment procedures under”</p> <p>Inserted language in (4): “must comply with”</p> <p>Analysis: The language was changed to remove ambiguity about which provisions of subsection 171 are applicable..</p>
173-400-099 (1)	173-400-099 (1)	

Existing rule language	New rule language	Change and analysis
<p><b>(b) Permit program sources, as defined in RCW 70.94.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104 .</b></p>	<p>(b) Permit program sources, as defined in RCW 70.94.030(18), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.</p>	<p>Text change: the reference to the definition of “permit program sources” was corrected. The definition is in (18) not (17).</p>
<p><b>173-400-102</b></p>	<p>173-400-102</p>	
<p><b>(3)(a) The source emits one or more air pollutants at rates greater than the emission rates listed in subsection (5) of this section and all air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030; or</b></p> <p><b>(b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.</b></p>	<p>(3)(a) The source emits one or more air pollutants at rates greater than the emission rates listed in subsection (5) of this section and all air pollutants at rates less than the "emission threshold" rates defined in WAC 173-400-030; or more than de minimis amounts of one or more toxic air pollutants listed in WAC 173-460-150.</p>	<p>Deleted:</p> <p>(b) The source emits measurable amounts of one or more Class A or Class B toxic air pollutants listed in WAC 173-460-150 and 173-460-160.</p> <p>Inserted:</p> <p>“more than de minimis amounts of one or more toxic air pollutants listed in WAC 173-460-150.”</p> <p>Analysis: This change was made to bring the rule into compliance with the regulatory language used in Ch. 173-460 WAC.</p>
<p><b>173-400-102(4)</b></p>	<p>173-400-102(4)</p>	

Existing rule language	New rule language	Change and analysis										
<p><b>(4) Sources exempt from registration program requirements. Any source included in a listed source category that is located in a county without an active local air authority shall not be required to register if ecology determines the following:</b></p> <p><b>(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and</b></p> <p><b>(b) The source or emission unit does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.</b></p>	<p>(4) Sources exempt from registration program requirements. Any source included in a listed source category that is located in a county without an active local air authority is not required to register if:</p> <p>(a) The source emits pollutants below emission rates specified in subsection (5) of this section; and</p> <p>(b) The source or emission unit does not emit more than de minimis amounts of toxic air pollutants specified in WAC 173-460-150.</p>	<p>Deleted: “ecology determines the following”</p> <p>“measurable amounts of Class A or Class B toxic air pollutants specified in 173-460-160”</p> <p>Analysis: This change was made to bring the rule into compliance with the regulatory language used in Ch. 173-460 WAC.</p>										
173-400-102(5)	173-400-102(5)											
	<table border="1"> <thead> <tr> <th data-bbox="831 1084 995 1117">Table 102(5) Pollutant</th> <th data-bbox="1220 1117 1297 1187">Tons/ Year</th> </tr> </thead> <tbody> <tr> <td data-bbox="856 1192 1094 1224">Carbon Monoxide</td> <td data-bbox="1220 1192 1268 1224">5.0</td> </tr> <tr> <td data-bbox="856 1263 1066 1295">Nitrogen oxides</td> <td data-bbox="1220 1263 1268 1295">2.0</td> </tr> <tr> <td data-bbox="856 1312 1045 1344">Sulfur dioxide</td> <td data-bbox="1220 1312 1268 1344">2.0</td> </tr> </tbody> </table>	Table 102(5) Pollutant	Tons/ Year	Carbon Monoxide	5.0	Nitrogen oxides	2.0	Sulfur dioxide	2.0	<p>Inserted: Table 102(5)</p> <p>Analysis: Renamed the table improve the rule’s readability..</p> <p>Inserted:</p> <table border="1"> <tbody> <tr> <td data-bbox="1415 1273 1682 1305">Particulate (PM 2.5)</td> <td data-bbox="1808 1273 1856 1305">0.5</td> </tr> </tbody> </table> <p>Analysis: Ecology must regulate</p>	Particulate (PM 2.5)	0.5
Table 102(5) Pollutant	Tons/ Year											
Carbon Monoxide	5.0											
Nitrogen oxides	2.0											
Sulfur dioxide	2.0											
Particulate (PM 2.5)	0.5											

Existing rule language	New rule language	Change and analysis
	Particulate Matter (PM) 1.25 Particulate (PM 2.5) 0.5 Fine Particulate (PM10) 0.75 Volatile organic compounds (VOC) 2.0 Lead 0.005	PM2.5 to comply with federal air quality standards. This sets an emission rate threshold for registration program applicability.
<b>173-400-104</b>	173-400-104	
<b>Registration fees.</b> <b>Fees can be found in chapter 173-455 WAC.</b>	<b>Registration fees.</b> See Chapter 173-455 WAC for ecology’s registration fee schedule.	Analysis: The sentence was amended to reflect the fact that only Ecology’s fees are listed in Chapter 173-455 WAC. The local air agencies have their own fee schedules that are not listed in the WAC.
<b>173-400-105</b>	173-400-105	
<b>Records, monitoring, and reporting.</b> <b>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</b>	<b>Records, monitoring, and reporting.</b> <b>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</b>	Analysis: Dates were changed in (4) and (5) of this subsection. The new dates reflect the publication date of an Ecology document and update references to federal regulations.

Existing rule language	New rule language	Change and analysis
<p>determine whether the source is in compliance with applicable emission limitations and control measures.</p> <p>...</p>	<p>whether the source is in compliance with applicable emission limitations and control measures.</p> <p>...</p>	
<p><b>(4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR parts 51, 60, 61 and 63 (in effect on October 1, 2006), or procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, 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.</b></p>	<p>(4) Source testing. To demonstrate compliance, ecology or the authority may conduct or require that a test be conducted of the source using approved EPA methods from 40 CFR parts 51, 60, 61 and 63 (in effect on July 1, 2010), or procedures contained in "<i>Source Test Manual - Procedures for Compliance Testing</i>," 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.</p>	

Existing rule language	New rule language	Change and analysis
<p><b>(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.</b></p> <p><b>(a) Fossil fuel-fired steam generators.</b></p> <p><b>(i) Opacity, except where:</b></p> <p><b>(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or</b></p> <p><b>(B) Only gaseous fuel is burned.</b></p> <p><b>(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.</b></p> <p><b>(iii) Percent oxygen or carbon dioxide where such measurements</b></p>	<p>(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.</p> <p>(a) Fossil fuel-fired steam generators.</p> <p>(i) Opacity, except where:</p> <p>(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or</p> <p>(B) Only gaseous fuel is burned.</p> <p>(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.</p> <p>(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur</p>	

Existing rule language	New rule language	Change and analysis
<p>are necessary for the conversion of sulfur dioxide continuous emission monitoring data.</p> <p><b>(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></p> <p><b>(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.</b></p> <p><b>(c) Fluid bed catalytic cracking units catalyst regenerators at</b></p>	<p>dioxide continuous emission monitoring data.</p> <p>(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).</p> <p>(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.</p> <p>(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty</p>	

Existing rule language	New rule language	Change and analysis
<p><b>petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.</b></p> <p><b>(d) Wood residue fuel-fired steam generators.</b></p> <p><b>(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.</b></p> <p><b>(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.</b></p> <p><b>(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</b></p>	<p>thousand barrels per day.</p> <p>(d) Wood residue fuel-fired steam generators.</p> <p>(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.</p> <p>(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.</p> <p>(e) Owners and operators of those sources required to install continuous monitoring equipment under this subsection shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on July 1, 2010).</p>	

Existing rule language	New rule language	Change and analysis
<p>specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on July 1, 2004).</p> <p>...</p> <p><b>(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.</b></p>	<p>...</p> <p>(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.</p>	
<b>WAC 173-400-107</b>	<b>WAC 173-400-107</b>	
<p><b>Excess emissions.</b></p> <p><b>(1) The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.</b></p> <p>...</p>	<p><b>Excess emissions.</b> This section is in effect until the earlier of January 1, 2013, or the effective date of EPAs' incorporation of sections WAC 173-400-108 and 109 into the Washington State Implementation Plan as replacement for this section. This section is not effective starting on that date.</p> <p>(1) The owner or operator of a source shall have the burden of</p>	<p>Inserted: This section is in effect until the earlier of January 1, 2013, or the effective date of EPAs' incorporation of sections WAC 173-400-108 and 109 into the Washington State Implementation Plan as replacement for this section. This section is not effective starting on that date.</p> <p>Analysis: Two new subsections that regulate excess emissions will replace subsection 107, but only when the</p>

Existing rule language	New rule language	Change and analysis
<p><b>(6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:</b></p> <p><b>(a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;</b></p> <p><b>(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and</b></p> <p><b>(c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary</b></p>	<p>proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.</p> <p>...</p> <p>(6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:</p> <p>(a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;</p> <p>(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and</p> <p>(c) The operator took immediate</p>	<p>EPA adopts them into the state implementation plan. This introductory sentence sets the parameters of when subsection 107 will no longer be in effect.</p>

Existing rule language	New rule language	Change and analysis
<p><b>to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.</b></p>	<p>and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.</p>	
<p><b>NEW RULE LANGUAGE 173-400-108</b></p>		
<p><b>WAC Excess Emissions Reporting</b>  <b>This section is not in effect until the earlier of January 1, 2013, or the effective date of EPA’s incorporation of sections WAC 173-400-108 and 109 into the Washington State Implementation Plan as replacement for section WAC 173-400-107.</b></p> <p><b>(1) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable, per the criteria in WAC 173-400-109, must be reported to the permitting authority as soon as possible, but in no case later than twelve hours after the excess emissions were discovered. Other excess emissions must be reported to the permitting authority within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports or, for chapter 401 sources, as provided in WAC 173-401-615.</b></p>		<p>This proposed section will not be effective until the EPA adopts it into the state implementation plan as a replacement for subsection 107. The proposed text is moved from subsection 107(3) and amended by reporting criteria that are required by the EPA and contained in EPA guidance. The EPA has required this type of reporting clarity in SIP approvals for other states around the country.</p>

Existing rule language	New rule language	Change and analysis
	<p>(2) For those sources not required to report under WAC 173-401-615, the report must contain at least the following information:</p> <ul style="list-style-type: none"> <li>(a) Date, time, duration of the episode;</li> <li>(b) Known causes;</li> <li>(c) For exceedances of non opacity emission limitations, an estimate of the quantity of excess emissions;</li> <li>(d) The corrective actions taken; and</li> <li>(e) The preventive measures taken or planned to minimize the chance of recurrence.</li> </ul> <p>(3) For any excess emission event that the owner or operator claims to be unavoidable under WAC 173-400-109, the report must include the following information in addition to that required in (2):</p> <ul style="list-style-type: none"> <li>(a) Properly signed, contemporaneous records documenting the owner or operator’s actions in response to the excess emissions event;</li> <li>(b) Information on whether installed emission monitoring and pollution control systems were operating at the time of the exceedance. If either or both systems were not operating, information on the cause and duration of the outage;</li> <li>(c) Any additional information required by WAC 173-400-109(3), (4) or (5) supporting the claim that the excess emissions were unavoidable.</li> </ul>	
<b>NEW RULE LANGUAGE 173-400-109</b>		
<p><b>Unavoidable Excess Emissions</b>  <b>This section is not in effect until the earlier of January 1, 2013 or the effective date of EPA’s incorporation of sections WAC 173-400-108 and 109 into the</b></p>		<p>This proposed section will not be effective until the EPA adopts it into the state implementation plan as a</p>

Existing rule language	New rule language	Change and analysis
<p><b>Washington State Implementation Plan as replacement for section 107.</b></p> <p><b>(1) Excess emissions determined to be unavoidable under the procedures and criteria in this section are violations of the applicable statute, regulation, permit, or regulatory order. Unavoidable excess emissions are subject to injunctive relief but not penalty.</b></p> <p><b>(2)(a) The owner or operator of a source shall have the burden of proving to the permitting authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (3), (4) and (5) of this section.</b></p> <p><b>(b) Excess emissions that cause a monitored exceedance of any relevant ambient air quality standard do not qualify for relief under this section;</b></p> <p><b>(c) This section does not apply to exceedances of emission standards promulgated under 40 CFR Parts 60, 61, 62, 63, 72, or a permitting authority’s adoption by reference of such federal standards,</b></p> <p><b>(d) Exceedance of emission limits and standards contained in a PSD permit issued solely by EPA.</b></p> <p><b>(3) Excess emissions due to startup or shutdown conditions will be considered unavoidable provided the source reports as required by WAC 173-400-108 and adequately demonstrates that the:</b></p> <p><b>(a) Excess emissions could not have been prevented through careful planning and design;</b></p> <p><b>(b) Startup or shutdown was done as expeditiously as practicable;</b></p> <p><b>(c) All emission monitoring systems were kept in operation unless their shutdown was necessary to prevent loss of life, personal injury, or severe property damage;</b></p>		<p>replacement for subsection 107.</p> <p>The proposed text is moved from subsection 107 and amended by reporting criteria that are required by the EPA and contained in EPA guidance. The EPA has required regulations developed by other states to contain similar unavoidable excess emission provisions in SIP approvals for other states around the country. This language agrees with the requirements in EPA guidance on this subject and approved rules for other states this type of reporting clarity in SIP approvals for other states around the country.</p>

Existing rule language	New rule language	Change and analysis
<p>(d) The emissions were minimized consistent with safety and good air pollution control practice during the start up and shutdown period;</p> <p>(e) If a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage; and</p> <p>(f) Excess emissions that occur due to upsets or malfunctions during routine startup or shutdown are treated as upsets or malfunctions under paragraph (5) of this section.</p>	<p>(4) Maintenance. Excess emissions during scheduled maintenance will be considered unavoidable if the source reports as required by WAC 173-400-108 and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.</p> <p>(5) Excess emissions due to upsets or equipment malfunctions will be considered unavoidable provided the source reports as required by WAC 173-400-108 and adequately demonstrates that:</p> <p>(a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;</p> <p>(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance;</p> <p>(c) The operator took immediate and appropriate corrective action in a manner consistent with safety and good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded; and</p> <p>(d) All emission monitoring systems and pollution control systems were kept operating to the extent possible unless their shutdown was necessary to prevent</p>	

Existing rule language	New rule language	Change and analysis
<p>loss of life, personal injury, or severe property damage.</p>		
<p><b>173-400-110(1), (2), (3)</b></p>	<p>173-400-110(1)</p>	
<p><b>New source review (NSR).</b>  <b>In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.</b></p> <p><b>(1) Applicability.</b>  <b>(a) This section, WAC 173-400-112 and 173-400-113 apply statewide except where an authority has adopted its own new source review rule.</b></p> <p><b>(b) This section applies to sources as defined in RCW 70.94.030(22), but does not include nonroad engines. Nonroad engines are regulated</b></p>	<p>New source review (NSR) for sources and portable sources.</p> <p>(1) Applicability.  (a) This section, WAC 173-400-111 and 173-400-113 apply statewide except where an authority has adopted its own new source review rule.  (b) This section applies to sources and stationary sources as defined in RCW 70.94.030 and WAC 173-400-030.  (c) The owner or operator must file a notice of construction application and an order of approval must be issued by the permitting authority prior to the establishment of any new source or stationary source except for those sources or modifications exempt from permitting under subsection (4), (5), and (6) of this section.  (d) For purposes of this section:</p>	<p>Subsection 110 has been divided into two sections, 110 and 111. Section 110 contains criteria used to determine if permitting is required and identifies which programs are involved. Section 111 contains information on permit processing. The change was made to improve the rule’s clarity.</p> <p>The introductory paragraph is deleted: “In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.”</p> <p>Analysis: This paragraph is found in</p>

Existing rule language	New rule language	Change and analysis
<p><b>under WAC 173-400-035.</b></p> <p><b>(2) Projects subject to NSR - notice of construction application.</b></p> <p><b>(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by the permitting authority prior to beginning actual construction of any new source, except for the following:</b></p> <p><b>(i) Those sources exempt under subsection (4) or (5) of this section; and</b></p> <p><b>(ii) A source regulated under WAC 173-400-035.</b></p> <p><b>For purposes of this section "new source" includes any modification to an existing stationary source, as defined in WAC 173-400-030, and any new or modified toxic air pollutant source, as defined in WAC 173-460-020.</b></p>	<p>(i) Establishment" means to begin actual construction;</p> <p>(ii) New source" includes:</p> <p>(A) A modification to an existing stationary source, as "modification" is defined in WAC 173-400-030;</p> <p>(B) A portable source as defined in WAC 173-400-030; and</p> <p>(C) A new or modified toxic air pollutant source, as defined in WAC 173-460-020.</p> <p>(D) New source review of a modification is limited to the emission unit or units that will be added to an existing source or modified source and the air contaminants whose emissions would increase as a result of the modification. Review of a major modification must comply with WAC 173-400-700 through 750 or WAC 173-400-830, as applicable.</p>	<p>Subsection 560. It is redundant to repeat it here.</p> <p>(1)(a) deleted: "112" as subsection 112 has been deleted in its entirety.</p> <p>(1)(b) deleted: "but does not include nonroad engines. Nonroad engines are regulated under WAC 173-400-035."</p> <p>Analysis: Nonroad engines have never been subject to new source review. The deletion of this sentence improves the rule structure without affecting the applicability.</p> <p>Renumbering:</p> <p>(2)(a) has been renumbered as (1)(c) and (d). The language has been updated without changing the meaning of the section.</p> <p>(3) has been renumbered as (1)(d) (ii) (D).</p> <p>The language has been edited to match that of RCW 70.94.152 (5): "New source review of a modification</p>

Existing rule language	New rule language	Change and analysis
<p><b>(b) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the permitting authority prior to beginning actual construction of any of the following new sources:</b></p> <p><b>(i) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except subpart AAA, Wood stoves and except subpart IIII (Standards of Performance for Stationary Compression Ignition Internal Combustion Engines) and subpart JJJJ (Standards of Performance for Stationary Spark Ignition Internal Combustion Engines) as they apply to emergency stationary internal combustion engines with a maximum engine power less than or equal to 500 brake horsepower (federal rules in effect on April 30, 2008);</b></p>	<p>(e) The procedural requirements pertaining to NOC applications and orders of approval for sources that are not major sources shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, Hazardous waste cleanup — model toxics control act, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of chapter 173-400</p>	<p>shall be limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification.”</p> <p>Insertion: the definition of “new source” has been expanded to include portable sources in compliance with the Federal Clean Air Act. The intent is to make it clear that portable sources are new sources and are subject to new source review.</p> <p>Inserted: “(1) (e) The procedural requirements pertaining to NOC applications and orders of approval for sources that are not major sources shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, Hazardous waste cleanup — model toxics control act, or to the department of ecology when it conducts a remedial action</p>

Existing rule language	New rule language	Change and analysis
<p><b>(ii) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants) (in effect on July 1, 2004), except for asbestos demolition and renovation projects subject to 40 CFR 61.145, and except from sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;</b></p>	<p>WAC through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW using the procedures outlined in WAC 173-340-710(9) or during a department-conducted remedial action, through the procedures outlined in WAC 173-340-710(9).</p>	<p>under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of chapter 173-400 WAC through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW using the procedures outlined in WAC 173-340-710(9) or during a department-conducted remedial action, through the procedures outlined in WAC 173-340-710(9).”</p>
<p><b>(iii) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories) except subpart ZZZZ (National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines) as it applies to emergency or limited use stationary reciprocating internal combustion engines with a maximum engine</b></p>	<p>(2) Requirements for new sources, modifications to existing sources, new major stationary sources and major modifications to sources. (a) A nonattainment new source review approval issued per the</p>	<p>Analysis: This language was inserted at the request of the assistant attorney’s general office to remedy potential conflict between Ch. 70.94 RCW and Ch. 70.105D RCW and their implementing rules.</p> <p>Deleted all of: 110(1)(b). Regardless of any other subsection... or in a unit specific emission limit. And all of: 110(1)(c). An applicant filing a notice of construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I</p>

Existing rule language	New rule language	Change and analysis
<p><b>power less than or equal to 500 brake horsepower (federal rules in effect on April 30, 2008);</b></p> <p><b>(iv) Any project that qualifies as a new major stationary source, or a major modification to a major stationary source subject to the requirements of WAC 173-400-112;</b></p> <p><b>(v) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.</b></p> <p><b>(c) An applicant filing a notice of construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, must send a copy of the application to the responsible federal land manager.</b></p> <p><b>(3) Modifications. New source review of a modification is limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants</b></p>	<p>requirements of WAC 173-400-830 is required for those pollutants to be emitted by the proposed new source or stationary source for which the area is classified as nonattainment if:</p> <p>(i) The proposed new source is major stationary source per the criteria in WAC 173-400-810 and 173-400-820; or</p> <p>(ii) The proposed modification to a stationary source is a major modification to a major source per the criteria in WAC 173-800-810 and 820.</p> <p>(b) A PSD permit issued per the requirements of WAC 173-400-730 is required for those pollutants to be emitted by the proposed new source or stationary source for which the area is classified as attainment or unclassified if:</p> <p>(i) The new source is a major stationary source per the criteria in WAC 173-400-710 and 173-400-720; or</p> <p>(ii) The proposal is a major modification per the criteria of WAC 173-400-710 and 173-400-720.</p>	<p>areas, must send a copy of the application to the responsible federal land manager.</p> <p>Inserted (2). This new section points applicants and permitting authorities to the subsections that regulate major stationary sources in attainment, nonattainment and unclassified areas.</p>

Existing rule language	New rule language	Change and analysis
<p><b>whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-720, as applicable.</b></p>	<p>(c) A notice of construction order of approval must be issued by the permitting authority prior to the establishment of any new source except for those new sources or modifications exempt from permitting under subsections (4), (5), and (6) of this section.</p> <p>(3) <b>Modifications.</b> New source review is required for any modification to a stationary source that requires an increase in a plant-wide cap or in a unit specific emission limit.</p>	<p>(3) This text is copied from the existing rule language in 110(1)(b).</p>
<p><b>173-400-110(4)</b></p> <p><b>Emission unit and activity exemptions.</b></p> <p><b>Except as provided in subsection (2) of this section, the construction or modification of emission units in one of the categories listed below is exempt from new source review, provided that the modified unit continues to fall within one of the</b></p>	<p><b>173-400-110(4)</b></p> <p>Emission unit and activity exemptions.</p> <p>Except as provided in subsection (2) of this section, the construction or modification of emission units in one of the categories listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The construction or</p>	

Existing rule language	New rule language	Change and analysis
<p>listed categories. The construction or modification of an emission unit exempt under this subsection does not require the filing of a notice of construction application.</p> <p>(a) Maintenance/construction:</p> <p>(i) Cleaning and sweeping of streets and paved surfaces;</p> <p>(ii) Concrete application, and installation;</p> <p>(iii) Dredging wet spoils handling and placement;</p> <p>(iv) Paving application and maintenance, excluding asphalt plants;</p> <p>(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);</p> <p>(vi) Plumbing installation, plumbing protective coating application and maintenance activities;</p> <p>(vii) Roofing application;</p> <p>(viii) Insulation application and</p>	<p>modification of an emission unit exempt under this subsection does not require the filing of a notice of construction application.</p> <p>(a) Maintenance/construction:</p> <p>(i) Cleaning and sweeping of streets and paved surfaces;</p> <p>(ii) Concrete application, and installation;</p> <p>(iii) Dredging wet spoils handling and placement;</p> <p>(iv) Paving application and maintenance. Asphalt plants are not exempt from this section;</p> <p>(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, house keeping, plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);</p> <p>(vi) Plumbing installation, plumbing protective coating application and maintenance activities;</p> <p>(vii) Roofing application and maintenance;</p> <p>(viii) Insulation application and maintenance;</p> <p>(ix) Janitorial services and consumer use of janitorial products.</p>	<p>(a)(iv) Rewritten for clarity.</p> <p>(a)(v) Rewritten for clarity. Deleted: <i>routine</i>".</p> <p>(a)(vii) Exemption expanded to include roof maintenance.</p> <p>(a)(viii) Rewritten for clarity.</p> <p>(a) (x) New exemption added for clarity. Added to catch all exempt construction activities that are not individually listed above.</p>

Existing rule language	New rule language	Change and analysis
<p><b>maintenance, excluding products for resale;</b></p> <p><b>(ix) Janitorial services and consumer use of janitorial products.</b></p> <p><b>(b) Storage tanks:</b></p> <p><b>Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact the permitting authority to determine the exemption status of storage tanks prior to their installation.</b></p> <p><b>(i) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;</b></p> <p><b>(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;</b></p> <p><b>(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;</b></p> <p><b>(iv) Process and white water</b></p>	<p>(x) Construction activities that are not related to new or modified stationary sources or portable stationary sources.</p> <p>(b) Storage tanks:</p> <p>Note: It can be difficult to determine requirements for storage tanks. Ecology strongly recommends that an owner or operator contact the permitting authority to determine the exemption status of storage tanks prior to their installation.</p> <p>(i) Lubricating oil storage tanks. Wholesale distributors of lubricating oils are not exempt from this section;</p> <p>(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;</p> <p>(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;</p> <p>(iv) Process and white water storage tanks;</p> <p>(v) Operation, loading and unloading of storage tanks and storage</p>	<p>(b)(i) Rewritten for clarity.</p>

Existing rule language	New rule language	Change and analysis
<p>storage tanks;</p> <p><b>(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);</b></p> <p><b>(vi) Operation, loading and unloading of storage tanks, ≤ 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;</b></p> <p><b>(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;</b></p> <p><b>(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.</b></p> <p><b>(c) A project with combined aggregate heat inputs of combustion</b></p>	<p>vessels, with lids or other appropriate closure and less than 260-gallon capacity (35 cubic feet);</p> <p>(vi) Operation, loading and unloading of storage tanks, 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as listed in chapter 173-460 WAC, max. VP 550 mm mercury at 21°C;</p> <p>(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;</p> <p>(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.</p> <p>(c) New or modified emission units with combined aggregate heat inputs of combustion units (excluding emergency engines exempted by subsection (3)(h)(xxxix) of this section), less than or equal to all of the following:</p> <p>(i). 500,000 Btu/hr using coal with 0.5% sulfur or other fuels with 0.5%</p>	<p>(c) Replaced “project” with “new or modified emission units” to improve rule consistency.</p> <p>(c)(iv) Inserted gasoline as it is a commonly used fuel.</p>

Existing rule language	New rule language	Change and analysis
<p><b>units (excluding emergency engines exempted by subsection (4)(h)(xxxix) of this section), ≤ all of the following:</b></p> <p><b>(i) ≤ 500,000 Btu/hr using coal with ≤ 0.5% sulfur or other fuels with ≤ 0.5% sulfur;</b></p> <p><b>(ii) ≤ 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;</b></p> <p><b>(iii) ≤ 400,000 Btu/hr wood waste or paper;</b></p> <p><b>(iv) ≤ 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with ≤0.05% sulfur;</b></p> <p><b>(v) ≤ 4,000,000 Btu/hr using natural gas, propane, or LPG.</b></p> <p><b>(d) Material handling:</b></p> <p><b>(i) Continuous digester chip feeders;</b></p> <p><b>(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;</b></p> <p><b>(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is ≤ 10%;</b></p>	<p>sulfur;</p> <p>(ii) 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;</p> <p>(iii) 400,000 Btu/hr wood waste or paper;</p> <p>(iv) 1,000,000 Btu/hr using gasoline, kerosene, #1, or #2 fuel oil and with 0.05% sulfur;</p> <p>(v) 4,000,000 Btu/hr using natural gas, propane, or LPG.</p> <p>(d) Material handling:</p> <p>(i) Continuous digester chip feeders;</p> <p>(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;</p> <p>(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is 10%;</p> <p>(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm mercury at 21°C, with lids or other appropriate</p>	

Existing rule language	New rule language	Change and analysis
<p><b>(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.</b></p> <p><b>(e) Water treatment:</b></p> <p><b>(i) Septic sewer systems, not including active wastewater treatment facilities;</b></p> <p><b>(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;</b></p> <p><b>(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;</b></p> <p><b>(iv) Process water filtration system and demineralizer vents;</b></p> <p><b>(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater</b></p>	<p>closure.</p> <p>(e) Water treatment:</p> <p>(i) Septic sewer systems, not including active wastewater treatment facilities;</p> <p>(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;</p> <p>(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;</p> <p>(iv) Process water filtration system and demineralizer vents;</p> <p>(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;</p> <p>(vi) Demineralizer tanks;</p> <p>(vii) Alum tanks;</p> <p>(viii) Clean water condensate tanks.</p> <p>(f) Environmental chambers and laboratory equipment:</p> <p>(i) Environmental chambers and humidity chambers using only gases that are not toxic air pollutants listed in chapter 173-460 WAC;</p> <p>(ii) Gas cabinets using only gases that are not toxic air pollutants</p>	<p>(f)(i) Rewritten for clarity.</p> <p>(g)(iv) Exemption expanded to include non-continuous vents.</p>

Existing rule language	New rule language	Change and analysis
<p>treatment systems;</p> <p>(vi) Demineralizer tanks;</p> <p>(vii) Alum tanks;</p> <p>(viii) Clean water condensate tanks.</p> <p>(f) Environmental chambers and laboratory equipment:</p> <p>(i) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;</p> <p>(ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;</p> <p>(iii) Installation or modification of a single laboratory fume hood;</p> <p>(iv) Laboratory research, experimentation, analysis and testing at sources whose primary purpose and activity is research or education. To be exempt, these sources must not engage in the production of products, or in providing commercial services, for sale or exchange for commercial profit except in a de minimis</p>	<p>regulated under chapter 173-460 WAC;</p> <p>(iii) Installation or modification of a single laboratory fume hood;</p> <p>(iv) Laboratory research, experimentation, analysis and testing at sources whose primary purpose and activity is research or education. To be exempt, these sources must not engage in the production of products, or in providing commercial services, for sale or exchange for commercial profit except in a de minimis manner. Pilot-plants or pilot scale processes at these sources are not exempt.</p> <p>(v) Laboratory calibration and maintenance equipment.</p> <p>(g) Monitoring/quality assurance/testing:</p> <p>(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;</p> <p>(ii) Hydraulic and hydrostatic testing equipment;</p> <p>(iii) Sample gathering, preparation and management;</p> <p>(iv) Vents from emission monitors and other analyzers.</p> <p>(h) Miscellaneous:</p> <p>(i) Single-family residences and</p>	

Existing rule language	New rule language	Change and analysis
<p>manner. Pilot-plants or pilot scale processes at these sources are not exempt.</p> <p>(v) Laboratory calibration and maintenance equipment.</p> <p>(g) Monitoring/quality assurance/testing:</p> <p>(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;</p> <p>(ii) Hydraulic and hydrostatic testing equipment;</p> <p>(iii) Sample gathering, preparation and management;</p> <p>(iv) Vents from continuous emission monitors and other analyzers.</p> <p>(h) Miscellaneous:</p> <p>(i) Single-family residences and duplexes;</p> <p>(ii) Plastic pipe welding;</p> <p>(iii) Primary agricultural production activities including soil preparation, planting, fertilizing,</p>	<p>duplexes;</p> <p>(ii) Plastic pipe welding;</p> <p>(iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;</p> <p>(iv) Comfort air conditioning;</p> <p>(v) Flares used to indicate danger to the public;</p> <p>(vi) Natural and forced air vents and stacks for bathroom/toilet activities;</p> <p>(vii) Personal care activities;</p> <p>(viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;</p> <p>(ix) Tobacco smoking rooms and areas;</p> <p>(x) Noncommercial smokehouses;</p> <p>(xi) Blacksmith forges for single forges;</p> <p>(xii) Vehicle maintenance activities, not including vehicle surface coating;</p> <p>(xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);</p> <p>(xiv) Wax application;</p> <p>(xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment</p>	

Existing rule language	New rule language	Change and analysis
<p><b>weed and pest control, and harvesting;</b></p> <p><b>(iv) Comfort air conditioning;</b></p> <p><b>(v) Flares used to indicate danger to the public;</b></p> <p><b>(vi) Natural and forced air vents and stacks for bathroom/toilet activities;</b></p> <p><b>(vii) Personal care activities;</b></p> <p><b>(viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;</b></p> <p><b>(ix) Tobacco smoking rooms and areas;</b></p> <p><b>(x) Noncommercial smokehouses;</b></p> <p><b>(xi) Blacksmith forges for single forges;</b></p> <p><b>(xii) Vehicle maintenance activities, not including vehicle surface coating;</b></p> <p><b>(xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);</b></p> <p><b>(xiv) Wax application;</b></p> <p><b>(xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;</b></p>	<p>not including internal and external combustion equipment;</p> <p>(xvi) Ozone generators and ozonation equipment;</p> <p>(xvii) Solar simulators;</p> <p>(xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;</p> <p>(xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;</p> <p>(xx) Pulse capacitors;</p> <p>(xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;</p> <p>(xxii) Fire suppression equipment;</p> <p>(xxiii) Recovery boiler blow-down tank;</p> <p>(xxiv) Screw press vents;</p> <p>(xxv) Drop hammers or hydraulic presses for forging or metal working;</p> <p>(xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;</p> <p>(xxvii) Kraft lime mud storage tanks and process vessels;</p> <p>(xxviii) Lime grits washers, filters</p>	<p>(h)(xxxiii) Rewritten for clarity.</p> <p>(h)(xxxiv) Inserted: <i>Total</i> to improve consistency with Ch. 173-460 WAC.</p>

Existing rule language	New rule language	Change and analysis
<p>(xvi) Ozone generators and ozonation equipment;</p> <p>(xvii) Solar simulators;</p> <p>(xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;</p> <p>(xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;</p> <p>(xx) Pulse capacitors;</p> <p>(xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;</p> <p>(xxii) Fire suppression equipment;</p> <p>(xxiii) Recovery boiler blow-down tank;</p> <p>(xxiv) Screw press vents;</p> <p>(xxv) Drop hammers or hydraulic presses for forging or metal working;</p> <p>(xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;</p> <p>(xxvii) Kraft lime mud storage tanks and process vessels;</p> <p>(xxviii) Lime grits washers, filters</p>	<p>and handling;</p> <p>(xxix) Lime mud filtrate tanks;</p> <p>(xxx) Lime mud water;</p> <p>(xxxii) Stock cleaning and pressurized pulp washing down process of the brown stock washer;</p> <p>(xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;</p> <p>(xxxiii) Solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm mercury at 21 °C where no toxic air pollutants as listed in chapter 173-460 WAC are emitted;</p> <p>(xxxiv) Surface coating, aqueous solution or suspension containing 1% (by weight) VOCs, and/or total toxic air pollutants as defined in WAC 173-460-150;</p> <p>(xxxv) Cleaning and stripping activities and equipment using solutions having 1% VOCs (by weight) and/or total toxic air pollutants. Acid solutions used on metallic substances are not exempt;</p> <p>(xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or total toxic air</p>	<p>(h)(xxxix) Exemption expanded to include emergency internal combustion engines consistent with the new section of the rule, 173-400-900.</p>

Existing rule language	New rule language	Change and analysis
<p><b>and handling;</b></p> <p><b>(xxix) Lime mud filtrate tanks;</b></p> <p><b>(xxx) Lime mud water;</b></p> <p><b>(xxxi) Stock cleaning and pressurized pulp washing down process of the brown stock washer;</b></p> <p><b>(xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;</b></p> <p><b>(xxxiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;</b></p> <p><b>(xxxiv) Surface coating, aqueous solution or suspension containing ≤ 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;</b></p> <p><b>(xxxv) Cleaning and stripping activities and equipment using solutions having ≤ 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;</b></p> <p><b>(xxxvi) Dip coating operations, using materials less than 1% VOCs</b></p>	<p>pollutants as listed in chapter 173-460 WAC.</p> <p>(xxxvii) Abrasive blasting performed inside a booth or hangar designed to capture the blast grit or overspray.</p> <p>(xxxviii) For structures or items too large to be reasonably handled indoors, abrasive blasting performed outdoors that employs control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps and uses either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.</p> <p>(xxxix) Stationary emergency internal combustion engines with an aggregate brake horsepower that is less than or equal to 500 brake horsepower.</p> <p>(xl) Gasoline dispensing facilities with annual gasoline throughputs less than those specified in WAC 173-491-040(4)(a). Gasoline dispensing facilities subject to chapter 173-491 WAC are exempt from toxic air pollutant analysis pursuant to chapter 173-460 WAC.</p>	

Existing rule language	New rule language	Change and analysis
<p>(by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.</p>	<p>(xxxvii) Abrasive blasting performed inside a booth or hangar designed to capture the blast grit or overspray.</p>	<p>(xxxviii) For structures or items too large to be reasonably handled indoors, abrasive blasting performed outdoors that employs control measures such as curtailment during windy periods and enclosure of the area being blasted with tarps and uses either steel shot or an abrasive containing less than one percent (by mass) which would pass through a No. 200 sieve.</p>
<p>(xxxix) Emergency generators powered by internal combustion engines with a maximum power of less than or equal to 500 brake horsepower.</p>	<p>(xl) Gasoline dispensing facilities (GDFs) regulated by chapter 173-491 WAC.</p>	

Existing rule language	New rule language	Change and analysis										
173-400-110(5)	173-400-110(5)	173-400-110(5)										
<p><b>Exemptions based on emissions.</b></p> <p><b>(a) Except as provided in subsection (2) of this section and in this subsection:</b></p> <p><b>(i) Construction of a new emissions unit that has a potential to emit below each of the levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.</b></p> <p><b>(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.</b></p>	<p>Exemptions based on emissions.</p> <p>(a) Except as provided in subsection (2) of this section and in this subsection:</p> <p>(i) Construction of a new emissions unit that has a potential to emit below each of the levels listed in the table contained in (d) of this subsection is exempt from new source review.</p> <p>(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in Table 110(5) Exemptions levels of this subsection is exempt from new source review.</p> <table border="1" data-bbox="779 1117 1318 1305"> <thead> <tr> <th colspan="2" data-bbox="779 1117 1318 1157">(b) Table 110(5) Exemption levels:</th> </tr> </thead> <tbody> <tr> <td data-bbox="779 1157 1192 1198">pollutant</td> <td data-bbox="1192 1157 1318 1198">level</td> </tr> <tr> <td data-bbox="779 1198 1192 1239"></td> <td data-bbox="1192 1198 1318 1239">(tons</td> </tr> <tr> <td data-bbox="779 1239 1192 1279"></td> <td data-bbox="1192 1239 1318 1279">per</td> </tr> <tr> <td data-bbox="779 1279 1192 1305"></td> <td data-bbox="1192 1279 1318 1305">year)</td> </tr> </tbody> </table>	(b) Table 110(5) Exemption levels:		pollutant	level		(tons		per		year)	<p>(5)(a)(i) and (5) (a)(ii)(b) &amp; (c). Deleted “provided that the conditions of (b) of this subsection are met&gt;” and all of (b) and (c) as Washington’s Clean Air Act does not give authority to require notification from activities that are exempt.</p> <p>Table 110(5) PM2.5 added with de minimis based on same criteria as total suspended particulates and PM10 thresholds. EPA rules require regulation of PM2.5.</p>
(b) Table 110(5) Exemption levels:												
pollutant	level											
	(tons											
	per											
	year)											

Existing rule language	New rule language	Change and analysis
<p><b>(b) The owner or operator seeking to exempt a project from new source review under this section must notify, and upon request, file a brief project summary with the permitting authority prior to beginning actual construction on the project. If the permitting authority determines that the project will have more than a de minimis impact on air quality, the permitting authority may require the filing of a notice of construction application. The permitting authority may require the owner or operator to demonstrate that the emissions increase from the new or modified emission unit is smaller than all of the levels listed below.</b></p>	<p>(a) Total Suspended Particulates 1.2 5 (b) PM-10 0.7 5 (c) PM-2.5 0.5 (d) Sulfur dioxide 2.0 (e) Nitrogen Oxides 2.0 (f) Volatile Organic Compounds, total 2.0 (g) Carbon Monoxide 5.0 (h) Lead 0.0 05 (i) Ozone Depleting Substances 1.0 (in effect on July 1, 2000), total Greenhouse gases 75, expressed as CO<sub>2</sub>e 000</p>	<p>Table 110(5) (d) <i>Sulfur oxides</i> changed to <i>sulfur dioxide</i> to match the list of pollutants that the EPA mandates for regulation.</p> <p><i>Green house gases</i> inserted. The emission rate equals EPA's threshold for major source permitting.</p>
<p><b>(c) The owner/operator may begin actual construction on the project thirty-one days after the permitting authority receives the summary, unless the permitting authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction</b></p>		

Existing rule language	New rule language	Change and analysis
application.	(j) Toxic Air Pollutants	The de
		minimis
		emissio
		n rate
		specifie
		d for
		each
		TAP in
		WAC
		173-
		460-
		150.

**(d) Exemption level table:**

POLLUTANT	LE	VE L (TONS PER YEAR)
(a) Total Suspended Particulates		1 . 2 5
(b) PM-10		0 . 7 5

Existing rule language			New rule language	Change and analysis
(c) PM-2.5		0 . 5		
(d) Sulfur Oxides		2 . 0		
(e) Nitrogen Oxides		2 . 0		
(f) Volatile Organic Compounds, total		2 . 0		
(g) Carbon Monoxide		5 . 0		
(h) Lead		0 . 0 0 5		

Existing rule language		New rule language	Change and analysis
(i) Ozone Depleting Substances		1 . 0	
(in effect on July 1, 2000), total			
(j) Toxic Air Pollutants	The de minimis emission rate specified for each TAP in WACC <a href="#">173-460-150.</a>		

Existing rule language	New rule language	Change and analysis
173-400-110(6)	173-400-110(6)	
<p><b>Application processing - completeness determination.</b></p> <p><b>(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></p> <p><b>(b) For a project subject to the Special protection requirements for federal Class I areas in 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).</b></p>	<p>Portable source with notice of approval.</p> <p>A portable source is allowed to operate without obtaining a site-specific or a permitting authority specific approval order if the portable source complies with the provisions of WAC 173-400-036.</p>	<p>Deleted: All of (6). Application processing requirements are now in Subsection 111.</p> <p>Inserted: Portable source with notice of approval.</p> <p>A portable source is allowed to operate without obtaining a site-specific or a permitting authority specific approval order if the portable source complies with the provisions of WAC 173-400-036.</p> <p>This paragraph is part of the rule language needed to fully implement 173-400-036, Relocation of portable sources.</p>
173-400-110(8) (9) (10) (11)	173-400-110(8) (9) (10) (11)	

Existing rule language	New rule language	Change and analysis
<b>(8) Appeals.</b>		(8) Deleted
<b>(9) Construction time limitations.</b>		(9) Deleted
<b>(10) Change of conditions.</b>		(10) Deleted
<b>(11) Enforcement.</b>		(11) Deleted
		The rules for application processing are now located in the new subsection n173-400-111.
	<b>173-400-111 NEW SECTION</b>	
	<p>Processing notice of construction applications for sources, stationary sources and portable sources. The purpose of this section is to outline the new source review process and approval criteria for new and modified sources subject to review under WAC 173-400-110.</p>	
		(1) (a). Copied from (110)((6)(a).
	<p>(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.</p>	<p>(b) New paragraph clarifies the permit process. It provides</p>

Existing rule language	New rule language	Change and analysis
	<p>(b) A complete application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.</p> <p>(c) For a project subject to the special protection requirements for federal Class I areas in 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.</p> <p>(d) For a project subject to the major new source review requirements in WAC 173-400-800 through 850, the completeness determination includes a determination that the application</p>	<p>predictability for the applicant.</p> <p>(c) Copied from (110)(6)(b) and from (110)(2)(c).</p> <p>(d) New language linking the applications to major stationary source non-attainment new source review standards.</p> <p>(e) New language clarification on the timing for payment of permit fees.</p>

Existing rule language	New rule language	Change and analysis
	<p>includes all information required for review under those sections.</p> <p>(e) An application is not complete until any permit application fee required by the permitting authority has been paid.</p> <p>(2) Coordination with Chapter 173-401 WAC, operating permit regulation.</p> <p>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.</p> <p>(3) Criteria for approval of a notice of</p>	<p>(2) Copied from (110) (7)(b).</p> <p>(3) Criteria for approval summarizes the thresholds that must be met before a notice of construction application can be approved. The review criteria are not new, but have been edited of clarity.</p>

Existing rule language	New rule language	Change and analysis
	<p>construction application. An order of approval cannot be approved unless the following criteria are met:</p> <p>(a) The requirements of WAC 173-400-113;</p> <p>(b) The requirements of WAC 173-400-200;</p> <p>(c) The requirements of WAC 173-400-800 through -850, as applicable, and</p> <p>(d) All fees required by chapter 173-455 WAC (or the applicable new source review fee table of the local air pollution control authority) have been paid.</p> <p>(4) Final determination – time frame and signature authority.</p> <p>(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority must either:</p> <p>(i) Issue a final decision on the application, or</p>	<p>(4)(a) Copied from (110(7)(a).</p> <p>(b) Copied from (110(7)(c).</p> <p>(5)(a) Copied from (110)(8).</p>

Existing rule language	New rule language	Change and analysis
	(ii) Initiate notice and comment for those projects subject to WAC 173-400-171 followed as promptly as possible by a final decision.	(5)(b) Copied from (110)(7)(d).
	(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.	(6) Copied from (110)(8).
	(b) If the new source is a major stationary source or the change is a major modification subject to the	(7)(a) Copied from (110)(9).

Existing rule language	New rule language	Change and analysis
	<p>requirements of WAC 173-400-800 through -850, the permitting authority must:</p> <ul style="list-style-type: none"> <li>(i) Submit any control technology (LAER) determination included in a final order of approval for to the RACT/BACT/LAER clearinghouse maintained by EPA; and</li> <li>(ii) Send a copy of the final approval order to EPA.</li> </ul> <p>(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 in chapter 43.21B RCW and chapter 371-08 WAC.</p> <p>(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</p>	<p>(b) Copied from ((110)(9).</p> <p>(c) Copied from ((110)(9).</p> <p>(8) Copied from ((110)(10).  References to WAC in (v) have been updated as appropriate to reference the applicable rule sections.</p>

Existing rule language	New rule language	Change and analysis
	<p>time. The permitting authority may extend the eighteen-month period upon a satisfactory showing by the permittee that an extension is justified.</p> <p>(b) The extension of a project that is either a major stationary source in a nonattainment area or a major modification 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.</p> <p>(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.</p> <p>(8) Change of conditions or revisions</p>	<p>(8)(b) Copied from ((110)(10)(b).</p> <p>(9)New language clarifying when fees must be paid.</p> <p>(10) Copied from (110)(11).</p>

Existing rule language	New rule language	Change and analysis
	<p>to orders of approval.</p> <p>(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:</p> <p style="padding-left: 40px;">(i) The change in conditions will not cause the source to exceed an emissions standard;</p> <p style="padding-left: 40px;">(ii) No ambient air quality standard will be exceeded as a result of the change;</p> <p style="padding-left: 40px;">(iii) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;</p> <p style="padding-left: 40px;">(iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and</p> <p style="padding-left: 40px;">(v) The revised order meets the requirements of WAC 173-400-111, 173-400-113, 173-400-720, 173-400-830, and 173-460-040 as applicable.</p>	

Existing rule language	New rule language	Change and analysis
	<p>(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.</p> <p>(9) Chapter 173-455 WAC lists the fees payable to ecology for processing notice of construction applications, construction time extensions and change of conditions</p> <p>(10) Enforcement. All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.</p>	
<b>173-400-112</b>	173-400-112	
<p><b>Requirements for new sources in nonattainment areas.</b></p> <p><b>(1) Definitions. The following definitions apply to this section:</b></p> <p>...</p> <p><b>(i) If the proposed new source is a major stationary source within the</b></p>	Reserved.	<p>Deleted all of subsection 112: Requirements for new sources in nonattainment areas.</p> <p>(1) Definitions. The following definitions apply to this section:</p> <p>...</p> <p>(i) If the proposed new source is a</p>

Existing rule language	New rule language	Change and analysis
<p>meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.</p>		<p>major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.</p> <p>Analysis: The permitting criteria in (2) is replaced by the criteria in 110(2). The remainder of 112 is replaced by updated program requirements in subsection 800-860.</p>
<b>173-400-113</b>	<b>173-400-113</b>	
<p><b>Requirements for new sources in attainment or unclassifiable areas.</b></p> <p><b>The permitting authority that is reviewing an</b></p> <p>...</p> <p><b>result of the new source or modification.</b></p> <p><b>(3) Allowable emissions from the</b></p>	<p>Requirements for new sources in attainment or unclassifiable areas.</p> <p>The permitting authority that is reviewing an</p> <p>...</p> <p>result of the new source or modification.</p> <p>(3) Allowable emissions from the proposed new source or modification</p>	<p>No changes to : Introductory paragraph, (1), or (2).</p> <p>Deleted in (3):</p> <p>This requirement will be considered to be met if the projected impact of</p>

Existing rule language	New rule language	Change and analysis																																																																																																																		
<p><b>proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:</b></p>	<p>will not delay the attainment date for an area not in attainment, or cause or contribute to a violation of any ambient air quality.</p> <p>(4)(a) The allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment.:</p> <p>Table 4a: Cause or contribute threshold values for nonattainment area impacts.</p>	<p>and ambient air</p> <p>Inserted: Within a nonattainment area and for the pollutants for which the area has been designated nonattainment</p> <p>Analysis: (4)(a) This language was separated from (3) for clarity. Edits were made to bring this section into compliance with the underlying federal requirements in 40 CFR 51.165.</p> <p>Inserted: New title for table. Inserted for clarity.</p>																																																																																																																		
<table border="1"> <tr> <td>P</td> <td>A</td> <td>2</td> <td>8</td> <td>3</td> <td>1</td> </tr> <tr> <td>o</td> <td>n</td> <td>4</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>l</td> <td>n</td> <td>-</td> <td>H</td> <td>H</td> <td>H</td> </tr> <tr> <td>l</td> <td>u</td> <td>H</td> <td>o</td> <td>o</td> <td>c</td> </tr> <tr> <td>u</td> <td>a</td> <td>o</td> <td>u</td> <td>u</td> <td>u</td> </tr> <tr> <td>t</td> <td>l</td> <td>u</td> <td>r</td> <td>r</td> <td>r</td> </tr> <tr> <td>a</td> <td></td> <td>r</td> <td></td> <td></td> <td></td> </tr> <tr> <td>n</td> <td>A</td> <td>A</td> <td>A</td> <td>A</td> <td>A</td> </tr> <tr> <td>t</td> <td>v</td> <td>v</td> <td>v</td> <td>v</td> <td>v</td> </tr> <tr> <td></td> <td>e</td> <td>v</td> <td>e</td> <td>e</td> <td>e</td> </tr> </table>	P	A	2	8	3	1	o	n	4	-	-	-	l	n	-	H	H	H	l	u	H	o	o	c	u	a	o	u	u	u	t	l	u	r	r	r	a		r				n	A	A	A	A	A	t	v	v	v	v	v		e	v	e	e	e	<table border="1"> <tr> <td></td> <td>A</td> <td>24</td> <td>8-</td> <td>3-</td> <td>1-</td> </tr> <tr> <td></td> <td>nn</td> <td>-</td> <td>H</td> <td>H</td> <td>H</td> </tr> <tr> <td>P</td> <td>ua</td> <td>H</td> <td>ou</td> <td>ou</td> <td>o</td> </tr> <tr> <td>ol</td> <td>l</td> <td>ou</td> <td>r</td> <td>r</td> <td>ur</td> </tr> <tr> <td>lu</td> <td>A</td> <td>r</td> <td>A</td> <td>A</td> <td>A</td> </tr> <tr> <td>ta</td> <td>ve</td> <td>A</td> <td>ve</td> <td>ve</td> <td>v</td> </tr> <tr> <td>nt</td> <td>ra</td> <td>ve</td> <td>ra</td> <td>ra</td> <td>er</td> </tr> <tr> <td></td> <td>ge</td> <td>ra</td> <td>ge</td> <td>ge</td> <td>a</td> </tr> <tr> <td></td> <td></td> <td>ge</td> <td></td> <td></td> <td>g</td> </tr> </table>		A	24	8-	3-	1-		nn	-	H	H	H	P	ua	H	ou	ou	o	ol	l	ou	r	r	ur	lu	A	r	A	A	A	ta	ve	A	ve	ve	v	nt	ra	ve	ra	ra	er		ge	ra	ge	ge	a			ge			g	<p>Table 4a: Cause or contribute threshold values for nonattainment area impacts.</p>
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Existing rule language						New rule language						Change and analysis	
													Deleted: An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.
													Analysis: This concept is expanded for clarity in the following (b).
													Inserted:
													(b) A project that results in a projected impact inside a nonattainment area above the appropriate value in table 3a of this section may use an offsetting emission reduction adequate to reduce the projected impacts to the above values or less. If the proposed project is unable to reduce emissions or obtain offsetting emissions reductions adequate to reduce modeled impacts below the values in table 3a of this section, then the permitting authority shall deny approval to construct and operate the proposed new source or modification.
													Analysis: The requirements of (4)(b) now match the criteria of 40 CFR

Existing rule language							New rule language	Change and analysis
P M 1 0	1 . 0  μ g / n 3	5  μ g / n 3	-	-	-	-	(b) A project that results in a projected impact inside a nonattainment area above the appropriate value in table 3a of this section may use an offsetting emission reduction adequate to reduce the projected impacts to the above values or less. If the proposed project is unable to reduce emissions or obtain offsetting emissions reductions adequate to reduce modeled impacts below the values in table 3a of this section, then the permitting authority shall deny approval to construct and operate the proposed new source or modification.	51.165.  Deleted: (4) If the proposed new source is a major stationary source or the proposed modification is a major modification, it meets all applicable requirements of WAC 173-400-720 through 173-400-750.  Analysis: This material is now located in 110(2). Change: (5) renumbered to (4) and verb changed.  Deleted: (6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the project meets the special protection requirements for federal Class I areas of WAC 173-400-117.
N C 2	1 . 0  μ g / n 3	-	-	-	-	-	(4) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under	Analysis: This material is now located in 110(2).

**An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.**

Existing rule language	New rule language	Change and analysis
<p><b>(4) If the proposed new source is a major stationary source or the proposed modification is a major modification, it meets all applicable requirements of WAC 173-400-720 through 173-400-750.</b></p> <p><b>(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.</b></p> <p><b>(6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the project meets the special protection requirements for federal Class I areas of WAC 173-400-117.</b></p>	<p>chapter 173-460 WAC, then the source must meet all applicable requirements of that program.</p>	
<b>173-400-115</b>	173-400-115	
<p>Standards of performance for new sources.</p> <p><b>NSPS. Standards of performance for</b></p>	<p>Standards of performance for new sources. NSPS.</p> <p>Standards of performance for new</p>	<p>Deleted: are</p> <p>Inserted: is</p> <p>Analysis: corrected verb tense.</p>

Existing rule language	New rule language	Change and analysis
<p><b>new sources are called New Source Performance Standards, or NSPS.</b></p> <p><b>(1) Adoption by reference.</b>  <b>(a) 40 CFR Part 60 and Appendices in effect on October 1, 2006, is adopted by reference. Exceptions are listed in subsection (1)(b) of this section.</b></p>	<p>sources are called New Source Performance Standards, or NSPS.</p> <p>(1) Adoption by reference.  (a) 40 CFR Part 60 and Appendices in effect on October 1, 2006, are adopted by reference. Exceptions are listed in subsection (1)(b) of this section.</p>	
173-400-116	173-400-116	
<p><b>New source review fees.</b>  <b>Fees can be found in chapter 173-455 WAC.</b></p>	<p>WAC 173-400-116 Increment protection.</p> <p>(1) Permitting authorities will avoid permitting any new source or new stationary source that would knowingly cause any PSD increment to be exceeded. Ecology will periodically review and evaluate increment consumption in the state and inform the other permitting authorities of the results of the review. Within sixty days of such time as information becomes available to ecology that an applicable increment is or may be</p>	<p>Deleted: New source review fees. Fees can be found in chapter 173-455 WAC.</p> <p>Inserted:  All of (1), (2) and (3).</p> <p>Analysis:  For a PSD program that EPA can approve as part of the state implementation plan, the requirements in 40 CFR 51.166(a) require that the state protect PSD increment from being exceeded and provide a means for both routine evaluation of increment consumption</p>

Existing rule language	New rule language	Change and analysis
	<p>violated, the adequacy of the state implementation plan will reviewed for adequacy in protecting increment from being exceeded. 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.</p> <p>(2) PSD increments are given in 40 CFR 52.21(c) as published on July 1, 2010</p> <p>(3) Exclusions from increment consumption. The following concentrations are excluded when determining increment consumption:  (a) Concentrations of particulate matter, PM10, or PM2.5, 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</p>	<p>and remedying instances of over consumption.</p> <p>(1) sets forth the requirement to protect increment and remedy increment over consumption.  (2) establishes the version of PSD increments adopted by reference.</p> <p>(3) The exemptions are copied from 40 CFR 51.166(f). The EPA does not establish exemptions by rule, but a SIP approved program is allowed to have certain exclusions from increment consumption.</p> <p>(3)(c) This exemption may prove useful in the future when Ecology begins addressing GHG emission control in state implementation plans and temporary increases of emissions are necessary to allow for construction of GHG abatement systems at stationary sources.</p>

Existing rule language	New rule language	Change and analysis
	<p>existing sources which are included in the baseline concentration; and</p> <p>(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. Such a revision must:</p> <p>(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 2 years in duration unless a longer time is approved by the administrator.</p> <p>(ii) Specify that the time period for excluding certain contributions in accordance with WAC 173-400-116(3)(c) is not renewable;</p> <p>(iii) Allow no emissions increase from a stationary source, which would:</p> <p>(A) Impact a Class I area or an area where an applicable increment is known to be violated; or</p> <p>(B) Cause or contribute to the</p>	

Existing rule language	New rule language	Change and analysis
	<p>violation of a national ambient air quality standard.</p> <p>(iv) Require limitations to be in effect the end of the time period specified in accordance with WAC 173-400-116(3)(c)(i), 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.</p>	
<b>173-400-117</b>	173-400-117	
<b>Special protection requirements for federal Class I areas.</b>		Analysis: No changes were made to subsection 117.
<b>173-400-120</b>	173-400-120	
<b>Bubble rules.</b>		Analysis: No changes were made to subsection 120.
<b>173-400-131</b>	173-400-131	
<b>Issuance of emission reduction credits.</b>	Issuance of emission reduction credits.	No change to (1), and (2).
<b>(1) Applicability. The owner or</b>	<b>(1) Applicability. The owner or</b>	

Existing rule language	New rule language	Change and analysis
<p><b>operator of any source may apply to the permitting authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.</b></p> <p><b>(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.</b></p> <p><b>(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting authority.</b></p> <p><b>(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate,</b></p>	<p>operator of any source may apply to the permitting authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.</p> <p>(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.</p> <p>(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting authority.</p> <p>(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever</p>	<p>Insert to 3(a): The old actual emissions rate is the average emissions rate occurring during the most recent twenty four month period preceding the request for an ERC. An alternative twenty four month period from within the previous five years may be accepted by the permitting authority if the owner or operator of the source demonstrates to the satisfaction of the permitting authority that the</p>

Existing rule language	New rule language	Change and analysis
<p><b>whichever is the lesser, minus the new allowable emissions rate.</b></p> <p><b>(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.</b></p> <p><b>(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.</b></p> <p><b>(d) No part of the emission reductions claimed for credit shall have been used as part of a</b></p>	<p>is the lesser, minus the new allowable emissions rate. The old actual emissions rate is the average emissions rate occurring during the most recent twenty four month period preceding the request for an ERC. An alternative twenty four month period from within the previous five years may be accepted by the permitting authority if the owner or operator of the source demonstrates to the satisfaction of the permitting authority that the alternative period is more representative of actual operations of the unit or source.</p> <p>(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.</p> <p>(c) The reduction must be greater than otherwise required by an applicable emission standard or order</p>	<p>alternative period is more representative of actual operations of the unit or source.</p> <p>Analysis: The language clarifies the timeframe used to determine the “old actual emission rate” to use when issuing a credit.</p> <p>No change to (3)(b).</p> <p>Insert: (3)(c): The reduction must be greater than otherwise required by an applicable emission standard or order of approval, permanent, quantifiable and federally enforceable.</p> <p>Analysis: This language is part of the federal criteria on the issuance of an emission offset.</p> <p>Renumbered: (c) to (d). No edits.</p>

Existing rule language	New rule language	Change and analysis
<p><b>determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-112 (2)(d), nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, for Source Categories, BACT, or LAER.</b></p> <p><b>(e) Concurrent with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.</b></p> <p><b>(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.</b></p>	<p>of approval, permanent, quantifiable and federally enforceable.</p> <p>(d) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.</p> <p>(e) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-1123 (2)(d)(4) or WAC 173-400-830, nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, BACT, or LAER.</p> <p>(f) No part of the emission reduction was included in the emission inventory used to demonstrate attainment or for reasonable further progress in an amendment to the State Implementation Plan.</p>	<p>Deleted (e): for Source Categories Analysis: This text is extraneous with no meaning in the list. The rules for NSPS and NESHAPS delineate the criteria for source categories.</p> <p>Inserted new (f): No part of the emission reduction was included in the emission inventory used to demonstrate attainment or for reasonable further progress in an amendment to the State Implementation Plan.</p> <p>Renumbered: (e) to (g). Inserted: <i>federally enforceable</i> Analysis: Federal enforceability is a requirement for emission offsets/emission credits in 40 CFR 51.165.</p> <p>Renumbered: (f) to (h). No edits.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.</b></p> <p><b>(5) Approval. Within thirty days after all required information has been received, the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the permitting authority shall:</b></p>	<p>(g) Concurrent with or prior to the authorization of an ERC, the applicant shall receive (have received) a federally enforceable regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.</p> <p>(h) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.</p> <p>(4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, the permitting authority may require the submission of additional information needed to review the application.</p> <p>(5) Approval. Within thirty days after all required information has been received, the permitting authority</p>	<p>(4) No change.</p> <p>(5) References corrected. subsection (3)(a) through (h) .</p>

Existing rule language	New rule language	Change and analysis
<p><b>(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (e) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and</b></p> <p><b>(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminants involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.</b></p>	<p>shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (h) of this section have been satisfied or not. If the application is approved, the permitting authority shall:</p> <p>(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (h) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and</p> <p>(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminants involved, the emission</p>	<p>Inserted to (5)(b): The emission reduction credit listed in the certificate shall be less than the amount of emission reduction achieved by the source.</p> <p>Analysis: This is a requirement contained in RCW 70.94.850.</p> <p>Inserted (5)(c): The certificate of emission reduction credit shall include the expiration date of the credit.</p> <p>Analysis: this text is copied from the criteria in subsection 400-136.</p>

Existing rule language	New rule language	Change and analysis
	<p>decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued. The emission reduction credit listed in the certificate shall be less than the amount of emission reduction achieved by the source.</p> <p>(c) The certificate of emission reduction credit shall include the expiration date of the credit.</p>	
<b>173-400-136</b>	<b>173-400-136</b>	
<p><b>Use of emission reduction credits (ERC).</b></p> <p><b>(1) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120; as a part of a determination of "net emissions increase;" or as an offsetting reduction to satisfy the requirements for new source review in WAC 173-400-112 or 173-400-113(3).</b></p>	<p>Use of emission reduction credits (ERC).</p> <p>(1) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120; as a part of a determination of "net emissions increase;" or as an offsetting reduction to satisfy the requirements for new source review in WAC 173-400-830 or 173-400-113(4) or to demonstrate a creditable emission</p>	<p>Deleted (1): WAC 173-400-112 or 173-400-113(3).</p> <p>Inserted: WAC 173-400-830 or 173-400-113(4) or to demonstrate a creditable emission reduction for permitting under WAC 173-400-720.</p> <p>Analysis: Corrected the reference pointers.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(2) Surrender of ERC certificate. When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the permitting authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.</b></p> <p><b>(3) Conditions of use.</b></p> <p><b>(a) An ERC may be used only for the air contaminants for which it was issued.</b></p> <p><b>(b) The permitting authority may impose additional conditions of use to account for temporal and spatial differences between the emissions units that generated the ERC and the emissions units that use the ERC.</b></p> <p><b>(4) Sale of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued.</b></p>	<p>reduction for permitting under WAC 173-400-720.</p> <p>(2) Surrender of ERC certificate. When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the permitting authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.</p> <p>(3) Conditions of use.</p> <p>(a) An ERC may be used only for the air contaminants for which it was issued.</p> <p>(b) The permitting authority may impose additional conditions of use to account for temporal and spatial differences between the emissions units that generated the ERC and the emissions units that use the ERC.</p> <p>(4) Sale of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of</p>	<p>(2), (3), (4): No changes.</p> <p>Deleted (5): <i>ten</i> Inserted (5): <i>five</i></p>

Existing rule language	New rule language	Change and analysis
<p><b>Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.</b></p> <p><b>(5) Redemption period. An unused ERC expires ten years after date of original issue.</b></p> <p><b>(6) Discount due to change in SIP. If reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</b></p>	<p>ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.</p> <p>(5) Redemption period. An unused ERC expires five years after date of original issue.</p> <p>(6) Discount due to change in SIP. If: reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard, issued ERCs may be discounted as necessary to reach attainment., if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</p>	<p>Analysis: The PSD program adopted by reference in section 720 utilizes a five year period to define contemporaneous emissions. EPA has previously identified the current the year lifetime for a credit combined with an ERC being able to document emission reductions for PSD as an impediment to EPA’s ability to approve the emission reduction credit program as part of the state implementation plan.</p> <p>Deleted (6):  , if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</p> <p>Inserted (6):  issued ERCs may be discounted as</p>

Existing rule language	New rule language	Change and analysis
	<p>(a) Issued ERCs may be discounted if:</p> <p>(i) Reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard,</p> <p>(ii) The ambient standard cannot be met through controls on operating sources, and</p> <p>(iii) The plan must be revised.</p> <p>(b)The discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</p> <p>(c)ERCs may be discounted by the permitting authority only after notice to the public according to WAC 173-400-171 and the owners of affected ERCs.</p>	<p>necessary to reach attainment., if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the permitting authority after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</p> <p>(a) Issued ERCs may be discounted if:</p> <p>(i) Reductions in emissions beyond those identified in the SIP are required to meet an ambient air quality standard,</p> <p>(ii) The ambient standard cannot be met through controls on operating sources, and</p> <p>(iii) The plan must be revised.</p> <p>(b)The discount shall not exceed the percentage of additional emission reduction needed to reach attainment.</p> <p>(c) ERCs may be discounted by the permitting authority only after notice to the public according to WAC 173-400-171 and the owners of affected</p>

Existing rule language	New rule language	Change and analysis
		<p>ERCs.</p> <p>Analysis: The existing criteria have been rewritten to be more accurate to the federal requirements and to respond to stakeholder comments on the difficulty of understanding what is required by this paragraph.</p>
<b>173-400-161</b>	173-400-161	
<b>Compliance schedules.</b>	Compliance schedules.	Analysis: no changes were made to subsection 161.
<b>173-400-171</b>	173-400-171	
<p><b>Public involvement.</b></p> <p><b>(1) Internet notification of receipt of an application.</b></p> <p><b>(a) For applications and actions not subject to a mandatory public notice and comment period per subsection (2)(a) of this section, the permitting authority will either:</b></p> <p><b>(i) Post on the permitting</b></p>	<p>Public notice.</p> <p>The purpose of this section is to specify the requirements for notifying the public about air quality permit actions and to provide opportunities for the public to participate in those permit actions.</p> <p>(1) Prevention of significant deterioration, and relocation of portable sources.</p>	<p>(1) Reformatted to note the exemptions at the beginning of subsection 171.</p> <p>(1)(b) Inserted: Portable source relocation notices as regulated by WAC 173-400-035, relocation of portable sources” to implement new subsection 173-400-036, Relocation of portable sources.</p>

Existing rule language	New rule language	Change and analysis
<p><b>authority's internet web site an announcement of the receipt of notice of construction applications and other proposed actions; or</b></p> <p><b>(ii) Follow the public involvement process found in subsection (3) of this section.</b></p> <p><b>(b) For internet notification, notice shall remain on the permitting authority's web site for a minimum of fifteen consecutive days. The internet posting shall include 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.</b></p> <p><b>(c) Requests for a public comment period shall be submitted to the permitting authority in writing via letter, fax, or electronic mail within fifteen days of its internet posting. A public notice and comment period shall be provided pursuant to</b></p>	<p>This section does not apply to: A notice of construction application designated for integrated review with actions regulated by WAC 173-400-720. Compliance with the public notification requirements of WAC 173-400-740 is required. Portable source relocation notices as regulated by WAC 173-400-035, relocation of portable sources.</p> <p>(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. (ii) Follow the public involvement process found in subsection (3) of this section.</p> <p>(b) The internet posting must remain on the permitting authority's web site for a minimum of fifteen consecutive days.</p>	<p>(2) The requirement for internet posting is carried forward from (171)(1).</p>

Existing rule language	New rule language	Change and analysis
<p><b>subsections (3) and (4) of this section 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 comment period.</b></p> <p><b>(d) Any application or proposed action that automatically requires a public comment period pursuant to subsection (2) of this section or for which the agency proposes to have a public comment period does not have to be announced on the permitting authorities' internet web site.</b></p> <p><b>(2) Actions subject to public notice and comment.</b></p> <p><b>(a) 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:</b></p>	<p>(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.</p> <p>(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.</p> <p>(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 comment period.</p> <p>(3) Which actions are subject to a mandatory public comment period? A public comment period is</p>	<p>(3) This subsection presents the concepts that were previously located in (2). The paragraphs have been edited for clarity. New notice requirements are not introduced.</p> <p>(3) (b) copied from (2)(a)(i).</p>

Existing rule language	New rule language	Change and analysis
<p><b>(i) Notice of construction application for any new or modified source, including the initial application for operation of a portable source, if 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 a pollutant regulated under chapter 173-460 WAC which will increase above the small quantity emission rate listed in WAC 173-460-080 (2)(e) would result; or</b></p>	<p>mandatory for the following applications, orders, and actions: Any application, order, or proposed action for which a public comment period is requested in compliance with (2) above.</p>	<p>(3) (c) copied from (2)(a)(ii).</p>
<p><b>(ii) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on October 1, 2006) as part of review under WAC 173-400-110, 173-400-112, 173-400-113, 173-400-117, or 173-400-720; or</b></p>	<p>((b) Any notice of construction application for a new or modified source, including the initial application for operation of a portable source, if there is an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030) or any increase in emissions of a toxic air pollutant above the acceptable source impact levels as regulated under chapter 173-460 WAC; or</p>	<p>(3) (d) copied from (2)(a)(iii).  (3) (e) copied from (2)(a)(iv).  (3) (f) copied from (2)(a)(v).</p>
<p><b>(iii) Any order to determine RACT; or</b></p>	<p>c) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2009) as part of review under WAC 173-400-110, 173-400-113, 173-400-117; or</p>	<p>(3) (g) copied from (2)(a)(vi).  (3) (h) copied from (2)(a)(vii).</p>

Existing rule language	New rule language	Change and analysis
<p><b>(iv) An order to establish a compliance schedule or a variance; or</b></p>	<p>(d) Any order to determine reasonably available control technology, RACT; or</p>	<p>(3) (i) copied from (2)(a)(viii).</p>
<p><b>(v) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or</b></p>	<p>(e) An order to establish a compliance schedule or a variance; or</p>	<p>(3) (j) copied from (2)(a)(ix).</p>
<p><b>(vi) An order to authorize a bubble; or</b></p>	<p>(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</p>	<p>(3) (k) copied from (2)(a)(x).</p>
<p><b>(vii) Any action to discount the value of an ERC issued to a source per WAC 173-400-136(6); or</b></p>	<p>(g) An order to authorize a bubble; or</p>	<p>(3) (l) copied from (2)(a)(xi).</p>
<p><b>(viii) Any regulatory order to establish BART for an existing stationary facility; or</b></p>	<p>(h) Any action to discount the value of an emission reduction credit, ERC, issued to a source per WAC 173-400-136(6); or</p>	<p>(3) (m) copied from (2)(c).</p>
<p><b>(ix) Notice of construction application or regulatory order used to establish a creditable emission reduction; or</b></p>	<p>(i) Any regulatory order to establish best available retrofit technology, BART, for an existing stationary facility; or</p>	<p>Deleted: (xiii) Exception. PSD actions, under WAC 173-400-730 and 173-400-740 are not required to follow the procedures in this section. The public involvement for these projects shall follow the procedures in WAC 173-400-730(4) and 173-400-740. This concept is covered in new</p>

Existing rule language	New rule language	Change and analysis
<p><b>(x) An order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit; or</b></p>	<p>(j) Any notice of construction application or regulatory order used to establish a creditable emission reduction; or</p>	<p>section 171(1)(a).  (4) copied from 171(3)(b).</p>
<p><b>(xi) The original issuance and the issuance of all revisions to a general order of approval issued under WAC 173-400-560; or</b></p>	<p>(k) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit; or</p>	
<p><b>(xii) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area; or</b></p>	<p>(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</p>	<p>(5) Concept copied from 171 (3)(a). The language has been rewritten for clarity.</p>
<p><b>(xiii) Exception. PSD actions, under WAC 173-400-730 and 173-400-740 are not required to follow the procedures in this section. The public involvement for these projects shall follow the procedures in WAC 173-400-730(4) and 173-400-740.</b></p>	<p>(m) Any application or other action for which the permitting authority determines that there is substantial public interest.</p>	
<p><b>(b) Ecology must provide notice on the following ecology only actions:</b></p>	<p>(4) How is the mandatory public comment period advertised? Notice of all applications, orders, or actions listed in (3) must be published in a newspaper of general circulation in the area where the source or</p>	<p>(6) (a) presents the same concepts as 171 (3) (b). The language has been</p>

Existing rule language	New rule language	Change and analysis
<p><b>(i) A Washington state recommendation that will be submitted by the director of ecology to EPA for approval of a SIP revision, including plans for attainment, maintenance, and visibility protection; or</b></p> <p><b>(ii) A Washington state recommendation to EPA for designation or redesignation of an area as attainment, nonattainment, or unclassifiable; or</b></p> <p><b>(iii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area; or</b></p> <p><b>(iv) A Washington state recommendation to EPA for redesignation of an area under WAC 173-400-118.</b></p> <p><b>(c) The permitting authority will provide public notice before</b></p>	<p>sources are or will be located. This notice can be published 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 before any of the applications or other actions listed in WAC 173-400-171(3) are approved or denied.</p> <p>The applicant or other initiator of the action must pay the publishing cost of providing public notice.</p> <p>(5)What information is 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,</p>	<p>rewritten for clarity.</p>

Existing rule language	New rule language	Change and analysis
<p><b>approving or denying any application or other action for which the permitting authority determines there is substantial public interest.</b></p> <p><b>(d) A notice of construction application designated for integrated review with an application to issue or modify an operating permit shall be processed in accordance with the operating permit program procedures and deadlines. A project designated for integrated review that includes a notice of construction application for a major modification in a nonattainment area, or a notice of construction application for a major stationary source in a nonattainment area must also comply with public notice requirements in this section. A project designated for integrated review that includes a PSD permit application must also comply with the requirements in WAC 173-400-730 and 173-400-740.</b></p> <p><b>(3) Public notice. Public notice</b></p>	<p>including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.</p> <p>(6) What must be included in the published notice?</p> <p>(a) The notice must include:</p> <p>(i) The name and address of the owner or operator and the facility;</p> <p>(ii) A brief description of the proposal, the type of facility, including a description of the facility's processes subject to the permit;</p> <p>(iii) A description of the air contaminant emissions including the type of pollutants and quantity of emissions;</p> <p>(iv) The location where those documents made available for public inspection may be reviewed;</p> <p>(v) A thirty-day period for submitting written comment to the permitting authority;</p> <p>(vi) A statement that a public hearing will be held if the permitting authority determines that there is significant public interest;</p> <p>i) The time, date and location of the public hearing for those Ecology only</p>	<p>(6) (b) copied from (3) (b) (viii).</p> <p>(6) (c) presents the same concepts as 171 (3)(a)(i) and (3) (b)(viii). The language has been rewritten for clarity.</p> <p>(7)(a) is copied from (3)(b)(iv) and (4)(a).</p> <p>(7)(b) is copied from (4)(b).</p> <p>(7)(c) presents the same concepts as 171 (4)(c). The language has been rewritten for clarity.</p>

Existing rule language	New rule language	Change and analysis
<p><b>shall be made only after all information required by the permitting authority has been submitted and after applicable preliminary determinations, if any, have been made. The applicant or other initiator of the action must pay the cost of providing public notice. Public notice shall include:</b></p> <p><b>(a) Availability for public inspection. The information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality, must be available for public inspection in at least one location near the proposed project. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.</b></p> <p><b>(i) For a redesignation of a class II area under WAC 173-400-118, ecology must make available for</b></p>	<p>actions listed in WAC 173-400-171 (11);</p> <p>ii) The name, address, and telephone number and e-mail address of a person 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. Some information is exempt from disclosure.</p> <p>(b) For projects subject to special protection requirements for federal Class I areas, public notice must include an explanation of the permitting authority's draft decision or state that an explanation of the draft decision appears in the support document for the proposed order of approval; and</p>	<p>(8) Heading inserted for clarity. Language copied from (5) (a).</p> <p>(9) presents the same concepts as 171 (3)(b)(v). The language has been rewritten for clarity.</p> <p>Inserted: (10) (a) and (b). If the notice of application does not specify a hearing date, the permitting authority will prepare a separate notice of public hearing. (a) At least thirty days prior to the hearing the permitting authority will provide notice of the hearing as</p>

Existing rule language	New rule language	Change and analysis
<p><b>public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation.</b></p> <p><b>(ii) For a revision of the SIP subject to subsection (2)(b)(iii) of this section, ecology must make available for public inspection the information related to the action at least thirty days before the hearing.</b></p> <p><b>(b) Newspaper publication. Public notice of the proposed project must be published in a newspaper of general circulation in the area of the proposed project and must include:</b></p> <p><b>(i) The name and address of the owner or operator and the facility;</b></p> <p><b>(ii) A brief description of the proposal;</b></p> <p><b>(iii) The location of the documents made available for public inspection;</b></p> <p><b>(iv) A thirty-day period for</b></p>	<p>(c) For a redesignation of an area under WAC 173-400-118, the notice must state that an explanation of the reasons for the proposed redesignation is available for review at the public location.</p> <p>(7) How long is the public comment period?</p> <p>(a) The public comment period must be at least thirty days long.</p> <p>(b) If a public hearing is held, the public comment period must extend through the hearing date.</p> <p>(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.</p> <p>(8) How can I request a public hearing?</p> <p>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</p>	<p>follows:</p> <p>(i) Publish the notice of public hearing in a newspaper of general circulation in the area where the source or sources are or will be located, and</p> <p>(ii) Mail the notice of public hearing to the applicant and to any person who submitted written comments on the application.</p> <p>(b) This notice must include the date, time and location of the public hearing and the information described in (6).</p> <p>Analysis: this new language sets parameters for notice of a public hearing when it is published independently of the notice of application. The parameters contain the concepts of (3)(b). The language has been rewritten for clarity.</p> <p>(1) (c). Copied from 171 (3)</p> <p>(11) The concept is taken from (3) (c). The language has been rewritten for clarity.</p>

Existing rule language	New rule language	Change and analysis
<p><b>submitting written comment to the permitting authority;</b></p> <p><b>(v) A statement that a public hearing may be held if the permitting authority determines within a thirty-day period that significant public interest exists or for those actions listed in WAC 173-400-171 (5)(b) with a mandatory public hearing requirement, the time, date, and location of the public hearing.</b></p> <p><b>(vi) The length of the public comment period in the event of a public hearing;</b></p> <p><b>(vii) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117 (5)(c), public notice shall either explain the permitting authority's decision or state that an explanation of the decision appears in the support document for the proposed order of approval; and</b></p>	<p>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.</p> <p>(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.</p> <p>(10) Notice of Public Hearing. If the notice of application does not specify a hearing date, the permitting authority will prepare a separate notice of public hearing.</p> <p>(a) At least thirty days prior to the hearing the permitting authority will provide notice of the hearing as follows:</p> <p>(i) Publish the notice of public hearing in a newspaper of general circulation in the area where the source or sources are or will be located, and</p>	<p>(12) (a) (i) Combines the concepts presented in (5)(b)(i) and (3)(d). It has been rewritten for clarity.</p> <p>(12) (a) (ii) Combines the concepts presented in (5)(b)(ii) and (iii). It has been rewritten for clarity.</p> <p>12) (a) (iii) Presents the concepts (5)(b)(iv). It has been rewritten for clarity.</p> <p>(12)(b). Inserted: The notice must comply with (10) above. Analysis: The new language provides predictability for the permitting authority and the applicant.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(viii) For a redesignation of an area under WAC 173-400-118, public notice shall state that an explanation of the reasons for the proposed redesignation is available for review at the public location.</b></p> <p><b>(c) Notifying EPA. A copy of the public notice will be sent to the EPA Region 10 regional administrator.</b></p> <p><b>(d) Additional public notice requirements for a SIP revision. For a revision to the SIP that is submitted by the director of ecology, ecology must publish the public notice required by subsection (3)(b) of this section in the Washington State Register in advance of the date of the public hearing.</b></p> <p><b>(4) Public comment.</b></p> <p><b>(a) The public comment period must be at least the thirty-day period for written comment specified in the public notice.</b></p>	<p>(ii) Mail the notice of public hearing to the applicant and to any person who submitted written comments on the application.</p> <p>(b) This notice must include the date, time and location of the public hearing and the information described in (6).</p> <p>(c) The applicant must pay all publishing costs associated with meeting the requirements of this subsection.</p> <p>(11) Who notifies the EPA? The permitting authority must send a copy of the notice for all actions subject to the mandatory public comment period to the EPA Region 10 regional administrator.</p> <p>(12) Special requirements for ecology only actions.</p> <p>(a) Ecology must hold a hearing on the following ecology only actions:</p> <p>(i) A Washington state recommendation to EPA that will be</p>	<p>(13) Copied form 171 (6).</p>

Existing rule language	New rule language	Change and analysis
<p><b>(b) If a public hearing is held, the public comment period must extend through the hearing date.</b></p> <p><b>(c) The permitting authority 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.</b></p> <p><b>(5) Public hearings.</b></p> <p><b>(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. The permitting authority may hold a public hearing if it determines significant public interest exists. The permitting authority will determine the location, date, and time of the public hearing.</b></p>	<p>submitted by the director of ecology for approval of a SIP revision including plans for attainment, maintenance, and visibility protection. Ecology must publish the public notice required by subsection 10 of this section in the Washington state register in advance of the date of the public hearing for all SIPs submitted to EPA.;</p> <p>(ii) A Washington state recommendation to EPA for designation, redesignation, or a change of boundaries of an attainment area, or nonattainment area, or an unclassifiable area;</p> <p>(iii) A Washington state recommendation to EPA to redesignate Class I, II, or III areas under WAC 173-400-118.</p> <p>(b) The notice must comply with (10) above.</p> <p><b>(13) Other requirements of law.</b> Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and</p>	

Existing rule language	New rule language	Change and analysis
<p><b>(b) Ecology must hold a hearing on the following ecology only actions:</b></p> <p><b>(i) A Washington state recommendation to EPA that will be submitted by the director of ecology for approval of a SIP revision;</b></p> <p><b>(ii) A Washington state recommendation to EPA for a change of boundaries of an attainment or nonattainment area;</b></p> <p><b>(iii) A Washington state recommendation to EPA for designation of an area as attainment, nonattainment, or unclassifiable; and</b></p> <p><b>(iv) A Washington state recommendation to EPA to redesignate an area under WAC 173-400-118.</b></p> <p><b>(c) Ecology must provide at least thirty days prior notice of a hearing</b></p>	<p>opportunity for comment, those procedures may be used in lieu of the provisions of this section.</p>	

Existing rule language	New rule language	Change and analysis
<p>required under subsection (4)(b) of this section.</p> <p><b>(6) 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.</b></p>		
<p>173-400-560</p>	<p>173-400-560</p>	
<p><b>General order of approval.</b></p> <p><b>(2) Public comment. A permitting authority shall provide an opportunity for public comment on a proposed new general order of approval or modification of an existing general order of approval in accordance with WAC 173-400-171.</b></p>	<p>General order of approval.</p> <p><b>(2) Public comment.</b> Compliance with WAC 173-400-171 is required for a proposed new general order of approval or modification of an existing general order of approval.</p>	
<p>173-400-700</p>	<p>173-400-700</p>	
<p><b>Review of major stationary sources of air pollution.</b></p> <p><b>(2) WAC 173-400-700 through 173-400-750 apply statewide except:</b></p>	<p>Review of major stationary sources of air pollution.</p> <p>(2) WAC 173-400-700 through 173-400-750 apply statewide except:</p>	<p>Deleted:</p> <p>(2) (c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40</p>

Existing rule language	New rule language	Change and analysis
<p><b>(a) Where the authority has received delegation of the federal PSD program from EPA or has a SIP approved PSD program.</b></p> <p><b>(b) To projects under the jurisdiction of the energy facility site evaluation council site certification process pursuant to chapter 80.50 RCW.</b></p> <p><b>(c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40 CFR 52.21 (z)(5), or to establish an actual Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.</b></p>	<p>(a) Where the authority has received delegation of the federal PSD program from EPA or has a SIP approved PSD program.</p> <p>(b) To projects under the jurisdiction of the energy facility site evaluation council site certification process pursuant to chapter 80.50 RCW.</p>	<p>CFR 52.21 (z)(5), or to establish an actual Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.</p> <p>Analysis: the language in (2)(c) was requested in the 2005 rule making by a local air authority. The local air authority had planned on requesting delegation from the EPA to allow them to issue a plantwide applicability limit (PAL). This text is deleted as no local air authority chose to utilize this option.</p> <p>No applications for PALs have been requested in the eight years that this option has been available.</p>
173-400-710	173-400-710	
Definitions.	Definitions.	No changes made to subsection 710.

Existing rule language	New rule language	Change and analysis
173-400-720	173-400-720	
<p><b>Prevention of significant deterioration (PSD).</b></p> <p><b>(1) No major stationary source or major modification to which the requirements of this section apply shall begin actual construction without having received a PSD permit.</b></p> <p><b>(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.</b></p> <p><b>(3) Enforcement. Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:</b></p> <p>...</p> <p><b>PSD permit.</b></p>	<p>Prevention of significant deterioration (PSD).</p> <p>(1) No major stationary source or major modification to which the requirements of this section apply can begin actual construction without having received a PSD permit.</p> <p>(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.</p> <p>(3) Enforcement. Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, will:</p> <p>...</p> <p>PSD permit.</p>	<p>(2) No changes</p> <p>(3) Deleted: shall Inserted:will</p> <p>Deleted (4)(a)(i): (i) Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in</p>

Existing rule language	New rule language	Change and analysis																																																																																								
<p><b>(4) Applicable requirements.</b></p> <p><b>(a) A PSD permit must assure compliance with the following requirements:</b></p> <p><b>(i) Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:</b></p> <table border="1" data-bbox="222 1292 716 1349"> <tr> <td></td> <td>A</td> <td>2</td> <td>8</td> <td>3</td> <td>1</td> </tr> </table>		A	2	8	3	1	<p>(4) Applicable requirements.</p> <p>(a) A PSD permit must assure compliance with the following requirements:</p> <p>(i) WAC 173-400-113(1), (3), and (4)</p> <p>(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;</p> <p>(iii) WAC 173-400-730 - Prevention of significant deterioration application processing;</p> <p>(iv) WAC 173-400-740 - Prevention of significant deterioration public involvement requirements;</p> <p>(v) WAC 173-400-116 – Increment Protection; and</p> <p>(vi) The following subparts of 40 CFR 52.21, in effect on September 15, 2010, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:</p> <table border="1" data-bbox="785 1214 1314 1354"> <thead> <tr> <th>Section</th> <th>Title</th> </tr> </thead> <tbody> <tr> <td>40 CFR 52.21</td> <td>Applicability Procedures.</td> </tr> </tbody> </table>	Section	Title	40 CFR 52.21	Applicability Procedures.	<p>attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:</p> <table border="1" data-bbox="1388 865 1881 1359"> <tr> <td></td> <td>A</td> <td>2</td> <td>8</td> <td>3</td> <td>1</td> </tr> <tr> <td>P</td> <td>n</td> <td>4</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>o</td> <td>n</td> <td>-</td> <td>H</td> <td>H</td> <td>H</td> </tr> <tr> <td>l</td> <td>u</td> <td>H</td> <td>o</td> <td>o</td> <td>o</td> </tr> <tr> <td>l</td> <td>a</td> <td>o</td> <td>u</td> <td>u</td> <td>u</td> </tr> <tr> <td>u</td> <td>l</td> <td>u</td> <td>r</td> <td>r</td> <td>r</td> </tr> <tr> <td>t</td> <td>r</td> <td>r</td> <td></td> <td></td> <td></td> </tr> <tr> <td>a</td> <td>A</td> <td>A</td> <td>A</td> <td>A</td> <td>A</td> </tr> <tr> <td>n</td> <td>v</td> <td>A</td> <td>v</td> <td>v</td> <td>v</td> </tr> <tr> <td>t</td> <td>e</td> <td>v</td> <td>e</td> <td>e</td> <td>e</td> </tr> <tr> <td></td> <td>r</td> <td>e</td> <td>r</td> <td>r</td> <td>r</td> </tr> <tr> <td></td> <td>a</td> <td>r</td> <td>a</td> <td>a</td> <td>a</td> </tr> <tr> <td></td> <td>g</td> <td>a</td> <td>g</td> <td>g</td> <td>g</td> </tr> </table>		A	2	8	3	1	P	n	4	-	-	-	o	n	-	H	H	H	l	u	H	o	o	o	l	a	o	u	u	u	u	l	u	r	r	r	t	r	r				a	A	A	A	A	A	n	v	A	v	v	v	t	e	v	e	e	e		r	e	r	r	r		a	r	a	a	a		g	a	g	g	g
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					40 CFR 52.21 (m)	Air quality analysis.					
					40 CFR 52.21 (n)	Source information.					
					40 CFR 52.21 (o)	Additional impact analysis.					
P N 1 0	1 . 0	5 . 0	-	-	40 CFR 52.21 (r)	Source obligation.	N C 2	1 . 0	-	-	-
					40 CFR 52.21 (v)	Innovative control technology.					
					40 CFR 52.21 (w)	Permit rescission.					
N C 2	1 . 0	-	-	-	40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.					

Sections not listed above are adopted elsewhere in this rule, reserved, stayed, not part of the 40 CFR 51.166 requirements, or are not delegable.

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

Analysis: This table is replaced by the new text.  
The text contains the same information as the deleted table.

Inserted:  
(a) (i) WAC 173-400-113(1), (3), and

(b) Exceptions to adopting 40 CFR

Existing rule language	New rule language	Change and analysis								
<p><b>An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.</b></p> <p><b>(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;</b></p> <p><b>(iii) WAC 173-400-730 - Prevention of significant deterioration application processing;</b></p> <p><b>(iv) WAC 173-400-740- Prevention of significant deterioration public involvement requirements; and</b></p> <p><b>(v) The following subparts of 40 CFR 52.21, in effect on October 1, 2006, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:</b></p>	<p>52.21 by reference.</p> <p>(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:</p> <p>(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.</p> <p>(B) In 40 CFR 52.21 (l)(2), air quality models, "administrator" means the EPA administrator.</p> <p>(C) In 40 CFR 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.</p> <p>(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.</p> <p>(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.</p> <p>(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r)</p>	<p>(4)</p> <p>(v) WAC 173-400-116 – Increment Protection; and</p> <p>(vi) The following subparts of 40 CFR 52.21, in effect on September 15, 2010, which are adopted by reference.</p> <p>Analysis: The provisions in (a)(v) and (vi) are federally required for a SIP approved PSD program.</p> <p>Deleted:</p> <table border="1" data-bbox="1375 824 1887 1338"> <tbody> <tr> <td data-bbox="1375 824 1602 954">40 CFR 52.21 (x)</td> <td data-bbox="1602 824 1887 954">Vacated by federal Court Decision.</td> </tr> <tr> <td data-bbox="1375 954 1602 1084">40 CFR 52.21 (y)</td> <td data-bbox="1602 954 1887 1084">Vacated by federal Court Decision.</td> </tr> <tr> <td data-bbox="1375 1084 1602 1214">40 CFR 52.21 (z)</td> <td data-bbox="1602 1084 1887 1214">Vacated by federal Court Decision.</td> </tr> <tr> <td data-bbox="1375 1214 1602 1338">40 CFR 52.21 (cc)</td> <td data-bbox="1602 1214 1887 1338">Vacated by federal Court Decision.</td> </tr> </tbody> </table> <p>Analysis: These cells were deleted</p>	40 CFR 52.21 (x)	Vacated by federal Court Decision.	40 CFR 52.21 (y)	Vacated by federal Court Decision.	40 CFR 52.21 (z)	Vacated by federal Court Decision.	40 CFR 52.21 (cc)	Vacated by federal Court Decision.
40 CFR 52.21 (x)	Vacated by federal Court Decision.									
40 CFR 52.21 (y)	Vacated by federal Court Decision.									
40 CFR 52.21 (z)	Vacated by federal Court Decision.									
40 CFR 52.21 (cc)	Vacated by federal Court Decision.									
<table border="1" data-bbox="210 1179 726 1360"> <thead> <tr> <th data-bbox="210 1179 436 1230">Section</th> <th data-bbox="436 1179 726 1230">Title</th> </tr> </thead> <tbody> <tr> <td data-bbox="210 1230 436 1360">40 CFR 52.21 (a)(2)</td> <td data-bbox="436 1230 726 1360">Applicability Procedures.</td> </tr> </tbody> </table>	Section	Title	40 CFR 52.21 (a)(2)	Applicability Procedures.						
Section	Title									
40 CFR 52.21 (a)(2)	Applicability Procedures.									

Existing rule language		New rule language	Change and analysis		
40 CFR 52.21 (b)	Definitions.	<p>of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC 173-400-117, 173-400-720, and 173-400-730." (iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:</p> <p>(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.</p> <p>(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.</p> <p>(C) 40 CFR 52.21 (r)(6) "The provisions of this paragraph (r)(6) apply to 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 and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a)</p>	from the table as these sections have been vacated.		
40 CFR 52.21 (c)	Ambient air increments.		Deleted:		
40 CFR 52.21 (d)	Ambient air ceilings.		<table border="1"> <tr> <td>40 CFR 52.21 (bb)</td> <td>Severability clause.</td> </tr> </table>	40 CFR 52.21 (bb)	Severability clause.
40 CFR 52.21 (bb)	Severability clause.				
40 CFR 52.21 (h)	Stack heights.		Analysis: This is applicable to the federal regulation but does not contain applicable requirements for the state to implement.		
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.		<p>Inserted text: (4)(a)(i): WAC 173-400-113(1), (3), and (4).</p> <p>Analysis: These requirements are currently located in different locations throughout the rule. The edit removes the potential of having multiple versions of similar text.</p>		
40 CFR 52.21 (j)	Control technology review.		Inserted text: (4)(a)(v) WAC 173-400-116 – Increment Protection.		
40 CFR 52.21 (k)	Source impact analysis.		The EPA requires protection of the increment in state implementation plans. This requirement is inserted to meet that criteria.		
40 CFR 52.21 (l)	Air quality models.				
40 CFR	Air quality				

Existing rule language		New rule language	Change and analysis
52.21 (m)	analysis.	<p>through (c) for calculating projected actual emissions.</p> <p>(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:</p> <p>(a) A description of the project;</p> <p>(b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and</p> <p>(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 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.</p> <p>(ii) The owner or operator shall submit a copy of the information set out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before</p>	<p>Inserted text:</p> <p>(vi) The following subparts of 40 CFR 52.21, in effect on September 15, 2010, which are adopted by reference.</p> <p>Analysis: The effective date of EPA’s tailoring rule is August 2, 2010. EPA is due to publish the PM2.5 increment regulation soon. It is Ecology’s goal to adopt the tailoring rule by reference and PM2.5 increment to stay in compliance with EPA’s rules. This allows Ecology to request and obtain EPA approval of the PSD program.</p>
40 CFR 52.21 (n)	Source information.		
40 CFR 52.21 (o)	Additional impact analysis.		
40 CFR 52.21 (r)	Source obligation.		
40 CFR 52.21 (v)	Innovative control technology.		
40 CFR 52.21 (w)	Permit rescission.		
40 CFR 52.21 (x)	Vacated by federal Court Decision.		
40 CFR 52.21 (y)	Vacated by federal Court Decision.		
40 CFR 52.21 (z)	Vacated by federal Court Decision.		
40 CFR 52.21 (aa)	Actuals Plantwide Applicability		

Existing rule language		New rule language	Change and analysis
	Limitation.	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.	
40 CFR 52.21 (bb)	Severability clause.		
40 CFR 52.21 (cc)	Vacated by federal Court Decision.		
<p><b>(b) Exceptions to adopting 40 CFR 52.21 by reference.</b></p> <p><b>(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:</b></p> <p><b>(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.</b></p> <p><b>(B) In 40 CFR 52.21 (l)(2), air quality models, "administrator" means the EPA administrator.</b></p> <p><b>(C) In 40 CFR 52.21 (b)(43) the</b></p>		<p>(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following 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.</p>	

Existing rule language	New rule language	Change and analysis
<p><b>definition of prevention of significant deterioration program, "administrator" means the EPA administrator.</b></p> <p><b>(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.</b></p> <p><b>(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.</b></p> <p><b>(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC 173-400-117, 173-400-720, and 173-400-730."</b></p> <p><b>(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:</b></p>	<p>(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.</p> <p>(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report will be submitted to the permitting authority within 60 days after the end of such year. The report shall contain</p>	

Existing rule language	New rule language	Change and analysis
<p><b>(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.</b></p> <p><b>(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.</b></p> <p><b>(C) 40 CFR 52.21 (r)(6) "The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or 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 and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a) through (c) for calculating projected actual emissions.</b></p>	<p>the following:</p> <p>(a) The name, address and telephone number of the major stationary source;</p> <p>(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and</p> <p>(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)."</p> <p>(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).</p> <p>(E) 40 CFR 52.21 (aa)(2)(ix) PAL</p>	<p>Deleted in (b)(i)(C): <i>at a Clean Unit.</i></p> <p>Analysis: The federal provisions for Clean Units in 40 CFR 52.21 have been vacated by the federal DC Circuit Court. This deletion reflects the court action.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:</b></p> <p><b>(A) A description of the project;</b></p> <p><b>(B) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and</b></p> <p><b>(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 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.</b></p> <p><b>(ii) The owner or operator shall submit a copy of the information set</b></p>	<p>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.</p> <p>(F) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740.</p> <p>(G) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.</p>	

Existing rule language	New rule language	Change and analysis
<p data-bbox="249 289 730 784"><b>out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.</b></p> <p data-bbox="249 833 737 1369"><b>(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations</b></p>	<p data-bbox="831 289 1325 670">(H) 40 CFR 52.21 (aa)(14) Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii).</p> <p data-bbox="831 678 1325 1174">(I) 40 CFR 52.21 (aa)(14)(ii) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC 173-401-615(3).</p>	

Existing rule language	New rule language	Change and analysis
<p>after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.</p> <p>(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.</p> <p>(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for that regulated NSR pollutant, and if</p>		

Existing rule language	New rule language	Change and analysis
<p>such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:</p> <p>(a) The name, address and telephone number of the major stationary source;</p> <p>(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and</p> <p>(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)."</p> <p>(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained</p>		

Existing rule language	New rule language	Change and analysis
<p>pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).</p> <p>(E) 40 CFR 52.21 (aa)(2)(ix) PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or regulatory order issued under WAC 173-400-091 issued by ecology that establishes a PAL for a major stationary source.</p> <p>(F) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance</p>		

Existing rule language	New rule language	Change and analysis
<p>with the application processing and public participation process in WAC 173-400-730 and 173-400-740.</p> <p>(G) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.</p> <p>(H) 40 CFR 52.21 (aa)(14) Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii).</p> <p>(I) 40 CFR 52.21 (aa)(14)(ii)</p>		

Existing rule language	New rule language	Change and analysis
<p>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).</p>		
<p>173-400-730</p>	<p>173-400-730</p>	
<p><b>Prevention of significant deterioration application processing procedures.</b></p> <p><b>(1) Application submittal.</b></p> <p><b>(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.</b></p> <p><b>(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the</b></p>	<p>Prevention of significant deterioration application processing procedures.</p> <p><b>(1) Application submittal.</b></p> <p>(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.</p> <p>(b) The applicant shall submit complete copies of its PSD application</p>	<p>Deleted:</p> <p>(1)(c): “requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or”</p> <p>Analysis: The federal provisions for Clean Units in 40 CFR 52.21 have been vacated by the federal DC Circuit Court. This deletion reflects the court action.</p> <p>No changes:</p>

Existing rule language	New rule language	Change and analysis
<p>following manner:</p> <p>(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.</p> <p>(ii) One copy to each of the following federal land managers:</p> <p>(A) U.S. Department of the Interior - National Park Service; and</p> <p>(B) U.S. Department of Agriculture - U.S. Forest Service.</p> <p>(iii) One copy to the permitting authority with authority over the source under chapter 173-401 WAC.</p> <p>(iv) One copy to EPA.</p> <p>(c) Application submittal and processing for requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa) shall be done as provided in WAC 173-400-720 (4)(b)(iii).</p> <p>(2) Application processing.</p> <p>...</p> <p>only to the extent that those criteria apply to a request to extend the</p>	<p>or an application to increase a PAL, distributed in the following manner:</p> <p>(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.</p> <p>(ii) One copy to each of the following federal land managers:</p> <p>(A) U.S. Department of the Interior - National Park Service; and</p> <p>(B) U.S. Department of Agriculture - U.S. Forest Service.</p> <p>(iii) One copy to the permitting authority with authority over the source under chapter <u>173-401</u> WAC.</p> <p>(iv) One copy to EPA.</p> <p>(c) Application submittal and processing for the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa) shall be done as provided in WAC <u>173-400-720</u> (4)(b)(iii).</p>	<p>(2), (3), (4), (5).</p>

Existing rule language	New rule language	Change and analysis
<p>construction time limitation.</p>	<p>(2) <b>Application processing.</b></p> <p>...</p> <p>only to the extent that those criteria apply to a request to extend the construction time limitation.</p>	
<p><b>173-400-740 PSD permitting public involvement requirements.</b></p>	<p>173-400-740</p>	<p>No changes to subsection 740.</p>
<p><b>173-400-750 Revisions to PSD permits.</b></p> <p><b>(1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:</b></p> <p><b>(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;</b></p> <p><b>(b) No ambient air quality</b></p>	<p>173-400-750 Revisions to PSD permits. WAC 173-400-750 Revisions to PSD permits.</p> <p>WAC 173-400-750 Revisions to PSD permits.</p> <p>(1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:</p> <p>(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;</p> <p>(b) No ambient air quality standard</p>	<p>No changes to (1) and (3).</p>

Existing rule language	New rule language	Change and analysis
<p>standard or PSD increment will be exceeded as a result of the change;</p> <p>(c) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;</p> <p>(d) The revised PSD permit will continue to require BACT, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD permit; and</p> <p>(e) The revised PSD permit continues to meet the requirements of WAC 173-400-112(2), and 173-400-113, as applicable.</p> <p>(2) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in WAC 173-400-116 shall also apply.</p> <p>(3) All revisions to PSD permits are subject to public involvement except for the following administrative revisions:</p> <p>(a) Change of the owner or operator's business name and/or mailing address;</p>	<p>or PSD increment will be exceeded as a result of the change;</p> <p>(c) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;</p> <p>(d) The revised PSD permit will continue to require BACT, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD permit; and</p> <p>(e) The revised PSD permit continues to meet the requirements of WAC 173-400-112(2), and 173-400-113, as applicable.</p> <p>(2) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in WAC 173-400-455 also applies.</p>	<p>Deleted in (2):116 shall apply Inserted: 455 applies.</p> <p>Analysis: The fee schedule is located in Ch.173-455 WAC. The correct reference and matching verb were inserted.</p>

Existing rule language	New rule language	Change and analysis
<p>(b) Corrections to typographical errors;</p> <p>(c) Revisions to compliance monitoring methods that do not reduce the permittee's or ecology's ability to determine compliance with the emission limitations; or</p> <p>(d) Any other revision that does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.</p>		
<p>173-400-800 Major stationary source and major modification in a nonattainment area.</p>		
<p>The following sections are to be used by ecology when reviewing and permitting new major stationary sources and major modifications to major stationary sources located in a designated nonattainment area in Washington.</p>		
<p>These requirements apply to any new major stationary source or major modification of an existing major stationary source located in a designated nonattainment area that is major for the pollutant or pollutants for which the area is designated as not in attainment of one or more national ambient air quality standards.</p>		

Existing rule language	New rule language	Change and analysis
<b>173-400-810</b>		
<p><b>173-400-810 Major stationary source and major modification definitions. The definitions in WAC 173-400-030 are to be used in WAC 173-400-800 through 173-400-850 unless a term is defined differently in WAC 173-400-810 for use in the major source nonattainment area permitting requirements in WAC 173-400-800 through 173-400-850 or a term is defined differently in the federal program requirements for issuance, renewal and expiration of a Plant Wide Applicability Limit which are adopted by reference in WAC 173-400-850.</b></p> <p><b>Actual emissions means:</b>  <b>The actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subsection (1)(b) through (d) of this definition. This definition does not apply when calculating whether a significant emissions increase has occurred, or for establishing a PAL under 173-400-850. Instead, for purposes of a PAL, “projected actual emissions” and “baseline actual emissions” as defined below apply.</b></p> <p><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 24-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.</b></p>		<p>Introductory paragraph copied from 400-710 with references updated to match the new rule structure.</p> <p>Definitions (1) through (29) are copied from 40 CFR Part 51.65 or WAC 173-400-710 with references updated to match the new rule structure.</p>

Existing rule language	New rule language	Change and analysis
<p>The permitting authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.</p>	<p>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.</p>	
<p>Baseline actual emissions means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following subsections (a) through (d) of this section.</p>	<p>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 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The permitting authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.</p>	
<p>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).</p>	<p>The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty four-month period.</p>	
<p>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</p>		

Existing rule language	New rule language	Change and analysis
<p>baseline actual emissions for the emissions units being changed. A different consecutive twenty four-month period can be used for each regulated NSR pollutant.</p> <p>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 paragraph (i)(B) of this definition.</p> <p>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 870 or under a plan approved by the Administrator, whichever is earlier, except that the ten-year period shall not include any period earlier than November 15, 1990.</p> <p>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).</p> <p>The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty four-month period.</p>		

Existing rule language	New rule language	Change and analysis
	<p>The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive twenty four-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63 of this chapter, 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.</p> <p>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.</p> <p>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 subsection (b)(ii) and (iii) of this definition.</p> <p>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.</p>	

Existing rule language	New rule language	Change and analysis
	<p>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 subsection (a) of this definition, for other existing emissions units in accordance with the procedures contained in subsection (b) of this definition, and for a new emissions unit in accordance with the procedures contained in subsection (c) of this definition, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.</p> <p>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 located at the new or modified stationary source unless performing stationary source functions. 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).</p> <p>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.</p>	

Existing rule language	New rule language	Change and analysis
<p>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 \$2,500,000,000 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.</p>	<p>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.</p>	
<p>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.</p>	<p>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.</p>	
<p>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).</p>		

Existing rule language	New rule language	Change and analysis
<p>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.</p> <p>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:</p> <p>A new emissions unit is any emissions unit which is (or will be) newly constructed and which has existed for less than 2 years from the date such emissions unit first operated.</p> <p>An existing emissions unit is any emissions unit that is not a new emissions unit. A replacement unit, as defined in WAC 173-400-810(25) is an existing emissions unit.</p> <p>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:</p> <p>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</p>		

Existing rule language	New rule language	Change and analysis
<p>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 paragraph (iii) of the definition of Major Stationary Source and that are not, by themselves, part of a listed source category.</p>	<p>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.</p>	<p>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.</p>
<p>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</p>		

Existing rule language	New rule language	Change and analysis
<p>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.</p> <p>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.</p> <p>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.</p> <p>For all other purposes of this section, fugitive emissions are treated in the same manner as other, non-fugitive emissions. This includes, but is not limited to, the</p>		

Existing rule language	New rule language	Change and analysis
<p>treatment of fugitive emissions for offsets (see WAC 173-400-840(8)) and for PALs (see 173-400-850(4)(a)(iv)).</p>	<p>Lowest achievable emission rate (LAER) means, for any source, the more stringent rate of emissions based on the following:  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  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.</p>	
<p>(a) Major stationary source means: Any stationary source of air pollutants that emits, or has the potential to emit, 100 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 part D, title I of the federal Clean Air Act. In those areas the following thresholds apply:  50 tons per year of volatile organic compounds in any serious ozone nonattainment area;  50 tons per year of volatile organic compounds in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area;  25 tons per year of volatile organic compounds in any severe ozone nonattainment area;</p>		

Existing rule language	New rule language	Change and analysis
<p>10 tons per year of volatile organic compounds in any extreme ozone nonattainment area;</p>	<p>50 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);</p>	
<p>70 tons per year of PM10 in any serious nonattainment area for PM10.</p>	<p>For the purposes of applying the requirements of paragraph 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, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in subsection (14)(b)(i) through (vi) of this definition shall apply in areas subject to sections 181-185b of part D, title I of the federal Clean Air Act.</p>	
<p>100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.</p>	<p>100 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.</p>	
<p>100 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.</p>	<p>50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.</p>	
<p>25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.</p>	<p>10 tons per year or more of nitrogen oxides in any extreme nonattainment area</p>	

Existing rule language	New rule language	Change and analysis
<p>for ozone;</p> <p>(iii) Any physical change that would occur at a stationary source not qualifying under subsection (14)(a) and (b) of this section as a major stationary source, if the change would constitute a major stationary source by itself.</p> <p>A major stationary source that is major for volatile organic compounds shall be considered major for ozone</p> <p>The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:</p> <p>(Coal cleaning plants (with thermal dryers);</p> <p>(Kraft pulp mills;</p> <p>Portland cement plants;</p> <p>Primary zinc smelters;</p> <p>Iron and steel mills;</p> <p>Primary aluminum ore reduction plants;</p> <p>Primary copper smelters;</p> <p>Municipal incinerators capable of charging more than 50 tons of refuse per day;</p> <p>Hydrofluoric, sulfuric, or nitric acid plants;</p> <p>Petroleum refineries;</p> <p>Lime plants;</p> <p>Phosphate rock processing plants;</p> <p>Coke oven batteries;</p> <p>Sulfur recovery plants;</p> <p>Carbon black plants (furnace process);</p> <p>Primary lead smelters;</p> <p>Fuel conversion plants;</p> <p>Sintering plants;</p>		

Existing rule language	New rule language	Change and analysis
<p>Secondary metal production plants;            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;            Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;            Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;            Taconite ore processing plants;            Glass fiber processing plants;            Charcoal production plants;            Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and            Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.</p>	<p>(a) Major modification means any physical change in or change in the method of operation of a major stationary source that would result in:            A significant emissions increase of a regulated NSR pollutant; and            A significant net emissions increase of that pollutant from the major stationary source.            Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.            A physical change or change in the method of operation shall not include:            Routine maintenance, repair and replacement.            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</p>	

Existing rule language	New rule language	Change and analysis
<p>any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;</p> <p>Use of an alternative fuel by reason of an order or rule section 125 of the federal Clean Air Act;</p> <p>Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;</p> <p>Use of an alternative fuel or raw material by a stationary source which;</p> <p>The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or §51.166, or</p> <p>The source is approved to use under any permit issued under regulations approved by the Administrator implementing 40 CFR 51.165;</p> <p>An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51 subpart I or 40 CFR 51.166.</p> <p>Any change in ownership at a stationary source.</p> <p>The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:</p> <p>The State Implementation Plan for the State in which the project is located, and</p> <p>Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.</p> <p>This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements for a PAL for that pollutant. Instead, the definitions in 40 CFR Part 51, Appendix S adopted by reference in WAC 173-400-850) shall apply.</p>		

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<p>For the purpose of applying the requirements of WAC 173-400-830(i) of this section 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.</p>	<p>Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to Sections 181 – 185B, part D, title I of the Act.</p> <p>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.</p>	
<p>Necessary preconstruction approvals or permits means those Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.</p>	<p>(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:</p> <p>The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to 173-400-</p>	

Existing rule language	New rule language	Change and analysis
<p>820 (2) and (3); and</p> <p>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 subsections (2)(b)(iv) and (v) of this section, in the definition of baseline actual emissions, shall not apply. 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;</p> <p>An increase or decrease in actual emissions is creditable only if:</p> <p>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</p> <p>The permitting authority has not relied on it in issuing a permit for the source under regulations approved pursuant to this section, which permit is in effect when the increase in actual emissions from the particular change occurs; and</p> <p>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</p>		

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category.	<p>An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.</p> <p>A decrease in actual emissions is creditable only to the extent that:</p> <p>The old level of actual emission or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;</p> <p>It is enforceable as a practical matter at and after the time that actual construction on the particular change begins; and</p> <p>The permitting authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or the State has not relied on it in demonstrating attainment or reasonable further progress;</p> <p>It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and</p> <p>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.</p> <p>Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.</p> <p>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.</p>	
<p>Nonattainment major new source review (NSR) program means the major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.165 or appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.</p>		
<p>Pollution prevention means any activity that through process changes, product</p>		

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	<p>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.</p> <p>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.</p> <p>Prevention of Significant Deterioration (PSD) permit means any permit that is issued under the major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of §51.166 of this chapter, or under the program in 40 CFR 52.21 of this chapter.</p> <p>Project means a physical change in, or change in the method of operation of, an existing major stationary source.</p> <p>(a) Projected actual emissions means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (twelve-month period) following the date the unit resumes regular operation after the project, or in any one of the ten years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a</p>	

Existing rule language	New rule language	Change and analysis
<p>significant net emissions increase at the major stationary source.</p>	<p>In determining the projected actual emissions before beginning actual construction, the owner or operator of the major stationary source:</p> <p>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</p> <p>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</p> <p>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,</p> <p>In lieu of using the method set out in subsection (23)(b) of this section, 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 paragraph(iii) of 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).</p>	

Existing rule language	New rule language	Change and analysis
	<p><b>(a) Regulated NSR pollutant, means the following:</b>  <b>Nitrogen oxides or any volatile organic compounds;</b>  <b>Any pollutant for which a national ambient air quality standard has been promulgated;</b>  <b>Any pollutant that is identified under this subsection as a constituent or precursor of a general pollutant listed in subsection (24)(a)(i) or (ii) of this section, 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:</b>  <b>Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.</b>  <b>Sulfur dioxide is a precursor to PM2.5 in all PM2.5 nonattainment areas.</b>  <b>Nitrogen oxides area precursor to PM2.5 in all PM2.5 nonattainment areas.</b></p> <p><b>PM2.5 emissions and PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming EPA rulemaking codifying emission test methods for condensable particulate matter), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in nonattainment major NSR permits. Compliance with emissions limitations for PM2.5 and PM10 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 made prior to the effective date of WAC 173-400-800 through 850 made without accounting for condensable particulate matter shall not be considered in violation of this section.</b></p>	

Existing rule language	New rule language	Change and analysis
	<p><b>(a) Replacement unit means an emissions unit for which all the criteria listed below are met:</b></p> <p><b>The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.</b></p> <p><b>The emissions unit is identical to or functionally equivalent to the replaced emissions unit.</b></p> <p><b>The replacement does not alter the basic design parameters (of the process unit. Basic design parameters are:</b></p> <p><b>Except as provided in subsection (25)(a)(iii)(C) of this section, 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></p> <p><b>Except as provided in subsection (25)(a)(iii)(C) of this section, 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.</b></p> <p><b>If the owner or operator believes the basic design parameter(s) in subsections (25)(a)(iii)(A) and (B) of this section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the reviewing</b></p>	

Existing rule language	New rule language	Change and analysis
	<p>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).</p> <p>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 subsections (25)(a)(iii)(A) and (B) of this section. 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.</p> <p>Efficiency of a process unit is not a basic design parameter.</p> <p>The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.</p> <p>(b) No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.</p> <p>(a) Significant means,:</p> <p>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:</p>	
Pollutant	Emission Rate	

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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	
PM10	15 tons per year	
PM2.5	10 tons per year of direct PM2.5 emissions; 40 tons per year of nitrogen oxide emissions	

**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, part D, title I of the federal Clean Air Act, if such emissions increase of volatile organic compounds exceeds twenty five tons per year. For the purposes of applying the requirements of WAC 173-400-830(1)(i) of this section 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 subsection (26)(a)(i), (ii), and (v) of this section, of the definition of significant, shall apply to nitrogen oxides emissions.**

**Notwithstanding the significant emissions rate for carbon monoxide under subsection (26)(a)(i) of this section, of the definition of significant, significant**

Existing rule language	New rule language	Change and analysis
<p>means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious nonattainment area for carbon monoxide if such increase equals or exceeds fifty tons per year, provided the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.</p> <p>Notwithstanding the significant emissions rates for ozone under subsections (26)(a)(i) and (ii), of 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, part D, title I of the Act shall be considered a significant net emissions increase.</p> <p>Significant emissions increase means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.</p> <p>Source means "stationary source" as defined in WAC 173-400-030.</p> <p>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.</p>		

Existing rule language	New rule language	Change and analysis
<p><b>173-400-820 Determining if a new stationary source or modification to a stationary source is subject to these requirements</b></p>		
	<p><b>(1) Any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment, if the stationary source or modification would locate anywhere in the designated nonattainment area shall use the following procedures to determine if the new stationary source or modification is subject to the permitting requirements of WAC 173-400-830-850.</b></p> <p><b>(2) Except as otherwise provided in WAC 173-400-820(4), and consistent with the definition of major modification, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase, and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.</b></p> <p><b>(3) The procedure for calculating (before beginning actual construction) whether a significant emissions increase ( <i>i.e.</i> , the first step of the process) will occur depends upon the type of emissions units being modified, according to WAC 173-400-820 (3)(i) through (iii). For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit is part of one of the source categories listed in subsection (v) of 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. 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 (v) of the</b></p>	

Existing rule language	New rule language	Change and analysis
<p>definition of major stationary source and that are not, by themselves, part of a listed source category. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source ( <i>i.e.</i> , the second step of the process) is contained in the definition of net emission increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.</p> <p><i>(i) Actual-to-projected-actual applicability test for projects that only involve existing emissions units.</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.</p> <p><i>(ii) Actual-to-potential test for projects that only involve construction of a new emissions unit(s).</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.</p> <p><i>(iii) Hybrid test for projects that involve multiple types of emissions units.</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in WAC 173-400-820(3)(i) and (ii) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant .</p> <p><b>(4) Any major stationary source which has a PAL for a regulated NSR pollutant shall comply with requirements in WAC 173-400-850.</b></p> <p><b>(5) Reasonable Possibility: Except as provided in WAC 173-400-820 (5)(f), the</b></p>	<p>definition of major stationary source and that are not, by themselves, part of a listed source category. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source ( <i>i.e.</i> , the second step of the process) is contained in the definition of net emission increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.</p> <p><i>(i) Actual-to-projected-actual applicability test for projects that only involve existing emissions units.</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.</p> <p><i>(ii) Actual-to-potential test for projects that only involve construction of a new emissions unit(s).</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.</p> <p><i>(iii) Hybrid test for projects that involve multiple types of emissions units.</i> A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in WAC 173-400-820(3)(i) and (ii) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant .</p> <p><b>(4) Any major stationary source which has a PAL for a regulated NSR pollutant shall comply with requirements in WAC 173-400-850.</b></p>	<p>Sub sections (5) and (6) are copied from WAC 713-400-720(4)(b) for consistency of application of this concept in 40 CFR 51.165(a)(6). The language in 40 CFR 51.165(a)(6) is identical to the language in 40 CFR 52.21(r)(6).</p>

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	<p>following specific provisions apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of WAC 173-400-820 (5)(f) of this section, 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 subsections (ii)(A) through (C) of the definition of projected actual emissions for calculating projected actual emissions.</p> <p>Before beginning actual construction of the project, the owner or operator shall document, and maintain a record of the following information:</p> <p>A description of the project;</p> <p>Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and</p> <p>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 subsection (ii)(C) of the definition of projected actual emissions and an explanation for why such amount was excluded, and any netting calculations, if applicable.</p> <p>Before beginning actual construction, the owner or operator shall provide a copy of the information set out in WAC 173-400-820 (5)(a) to the permitting authority. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this subsection, (5)(b), shall be construed to require the owner or operator of such a unit to obtain any determination from the permitting authority before beginning actual construction.</p> <p>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</p>	

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	<p>emissions units identified in subsection (5)(a)(ii) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this subsection (5)(c), fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of one of the source categories listed in subsection (v) of 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.</p> <p>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 subsection (5)(c) of this section setting out the unit's annual emissions, as monitored pursuant to subsection (5)c) of this section, during the year that preceded submission of the report.</p> <p>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 WAC 173-400-820 (5)(a), exceed the baseline actual emissions (as documented and maintained pursuant to WAC 173-400-820 (5)(a)(iii), by a significant amount (as defined in the definition of significant) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to WAC 173-400-820 (5)(a)(iii). Such report shall be submitted to the permitting authority within sixty days after the end of such year. The report shall contain the following:</p> <p>The name, address and telephone number of the major stationary source;</p> <p>The annual emissions as calculated pursuant to WAC 173-400-820 (5)(d); and</p> <p>Any other information that the owner or operator wishes to include in the report</p>	

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<p>(e.g., an explanation as to why the emissions differ from the preconstruction projection).</p> <p>A “reasonable possibility” under WAC 173-400-820 (5) occurs when the owner or operator calculates the project to result in either:</p> <p>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</p> <p>A projected actual emissions increase that, added to the amount of emissions excluded under subsection (ii)(C) of 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 WAC 173-400-820 (5)(f)(ii), and not also within the meaning of WAC 173-400-820 (5)(f)(i), then provisions WAC 173-400-820 (5)(c) through (f) do not apply to the project.</p> <p>(6) For projects not required to submit the above information to the permitting authority as part of a notice of construction application, the owner or operator of the source shall make the information required to be documented and maintained pursuant to WAC 173-400-820 (5) available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in Chapter 173-401 WAC.</p>		
<p><b>173-400-830 Permitting requirements</b></p>		
<p>(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, may be permitted to construct and operate the</p>		<p>(1)(a) copied from 400-112(2)(c) with references updated to match the new rule structure.</p>

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<p>proposed project provided the following requirements are met:</p> <p><b>(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></p> <p><b>(b) The proposed new major stationary source or a major modification of an existing major stationary source and the permitting authority has determined, based on review of an analysis performed by the 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.</b></p> <p><b>(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.</b></p> <p><b>(d) The proposed new major stationary source or a major modification of an existing major stationary source will employ BACT for all air contaminants, except that it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new major stationary source or major modification to an existing major stationary source is major.</b></p> <p><b>(e) Allowable emissions from the proposed new source or modification of that air contaminant 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.</b></p>		<p>.</p> <p>(1)(b) copied form 400-112(2)(d) with references updated to match the new rule structure.</p> <p>(1)(c) copied form 400-112(2)(a) with references updated to match the new rule structure.</p> <p>(1)(d) copied form 400-112(2)(b) with references updated to match the new rule structure.</p> <p>(1)(e) copied form 400-112(2)(e) with references updated to match the new rule structure.</p> <p>(1)(f) copied form 400-112(2)(f) with references updated to match the new rule structure.</p>

Existing rule language	New rule language	Change and analysis
<p><b>(f) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator 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.</b></p> <p><b>(g) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, it meets the requirements of the PSD program in WAC 173-400-720 for all air contaminants for which the area has not been designated nonattainment.</b></p> <p><b>(h) If the proposed new source is a major stationary source within the meaning of WAC 173-400-810, or the proposed modification is a major modification within the meaning of WAC 173-400-810, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.</b></p> <p><b>(i) All requirements of this section applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in an ozone nonattainment area or in portions of an ozone transport region where the administrator of the environmental protection agency has granted a NO<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.</b></p> <p><b>(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</b></p>		<p>rule structure.</p> <p>(1)(g) copied form 400-112(2)(g) with references updated to match the new rule structure.</p> <p>(1)(h) copied form 400-112(2)(i) with references updated to match the new rule structure.</p> <p>(1)(i), (2) and (3) copied form 40 CFR Part 51.65(a) with references updated to match the new rule structure.</p>

Existing rule language	New rule language	Change and analysis
<p>law.</p> <p><b>(3) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.</b></p>		
<p><b>173-400-840 Emission offset requirements</b></p>		
	<p><b>(1) The ratio of total actual emissions reductions to the emissions increase shall be 1.1:1 unless an alternative ratio is provided for the applicable nonattainment area in WAC 173-400-840(2) through (4).</b></p>	<p>Text copied form 40 CFR Part 51.65(a) with references updated to match the new rule structure.</p>
	<p><b>(2) In meeting the emissions offset requirements of WAC 173-400-830 for ozone nonattainment areas, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be as follows:</b></p> <p><b>(a) In any marginal nonattainment area for ozone—1.1:1;</b></p> <p><b>(b) In any moderate nonattainment area for ozone— 1.15:1;</b></p> <p><b>(c) In any serious nonattainment area for ozone— 1.2:1;</b></p> <p><b>(d) In any severe nonattainment area for ozone— 1.3:1; and</b></p> <p><b>(e) In any extreme nonattainment area for ozone— 1.5:1.</b></p>	
	<p><b>(3) Notwithstanding the requirements of WAC 173-400-840(2) 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, part D, title I of the</b></p>	

Existing rule language	New rule language	Change and analysis
<p>federal Clean Air Act, except for serious, severe, and extreme ozone nonattainment areas that are subject to sections 181-185B, part D, title I of the federal Clean Air Act.</p>	<p>(4) In meeting the emissions offset requirements of WAC 173-400-840 for ozone nonattainment areas that are subject to Sections 171-179B, part D, title I of the federal Clean Air Act (but are not subject to Sections 181-185B, part D, title I of the federal Clean Air Act, including eight-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be 1.1:1.</p>	
<p>(5) The requirements of this section applicable to major stationary sources and major modifications of PM10 shall also apply to major stationary sources and major modifications of PM10 precursors, except where the Administrator of the EPA determines that such sources do not contribute significantly to PM10 levels that exceed the PM10 ambient standards in the area.</p>	<p>(6) The plan shall require that in meeting the emissions offset requirements of WAC 173-400-830(1)(e), the emissions offsets obtained shall be for the same regulated NSR pollutant unless interprecursor offsetting is permitted for a particular pollutant as specified in this subsection. The plan may allow the offset requirements in WAC 173-400-830(1)(e) for direct PM<sub>2.5</sub> emissions or emissions of precursors of PM<sub>2.5</sub> to be satisfied by offsetting reductions in direct PM<sub>2.5</sub> emissions or emissions of any PM<sub>2.5</sub> precursor identified under subsection (C) of the definition of regulated NSR pollutant if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.</p>	<p>(7) copied from 400-112 (2)(e)(iii).</p> <p>(8) copied form 40 CFR Part 51.165(a)(3) with references updated</p>

Existing rule language	New rule language	Change and analysis
<p><b>(7) 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.</b></p> <p><b>(8) Emission offsets not included in an emission reduction credit issued under WAC 173-400-131, offsets must meet the following criteria:</b></p> <p><b>(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;</b></p> <p><b>(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</b></p> <p><b>(ii) The applicable state implementation plan does not contain an emissions limitation for that source or source category.</b></p> <p><b>(b) Other limitations on emission offsets</b></p> <p><b>(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;</b></p> <p><b>(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</b></p>		<p>to match the new rule structure.</p>

Existing rule language	New rule language	Change and analysis
	<p>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,</p> <p>(iii)Emission reductions.</p> <p>(A) Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if:</p> <p>(a) Such reductions are surplus, permanent, quantifiable, and federally enforceable, and</p> <p>(b) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the permitting authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the pre shutdown or curtailment 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.</p> <p>(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:</p> <p>(a) The shutdown or curtailment occurred on or after the date the construction permit application is filed; or</p> <p>(b) 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 subsection (8)(b)(iii) ( A )( a ) of this section.</p>	

Existing rule language	New rule language	Change and analysis
	<p>(iv) All emission reductions claimed as offset credit shall be federally enforceable;</p> <p>(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:</p> <p>(A) The other area is designated as an equal or higher nonattainment status and</p> <p>(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.</p> <p>(vi) Credit for an emissions reduction can be claimed to the extent that the reduction has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or the state has not relied on it in demonstration attainment or reasonable further progress.</p> <p>(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.</p>	
<p><b>173-400-850 Actual emissions plantwide applicability limitation (PAL)</b></p>		
	<p>The Actuals Plantwide Applicability limit program contained in Section IV.K of 40 CFR Part 51, Appendix S, Emission Offset Ruling, as of July 1, 2010, is adopted by reference with the following exceptions:</p> <p>(1) The term ‘reviewing authority’ means “permitting authority” as defined in WAC 173-400-030.</p>	

Existing rule language	New rule language	Change and analysis
	<p>(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.</p> <p>(3) The reference to 40 CFR 70.6(a)(3)(iii)(B) in subsection IV.K.14. means WAC 173-401-615(3)(b).</p> <p>(4) No PAL permit can be issued under this provision until EPA adopts this section into the state implementation plan.</p>	
<p><b>173-400-860 Public involvement procedures.</b></p>		
<p>The public involvement procedures in WAC 173-400-171 shall be followed, including joint public notifications (integrated review) with any proposed notice of construction approval for the project. Any permit issued under this section must comply with WAC 173-400-171.</p>		