

**Chapter 173-400 WAC
Amendments to Washington's New
Source Review Regulations**

Concise Explanatory Statement

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I. BACKGROUND

Introduction

The Department of Ecology (Ecology) reviews and permits new sources¹ of air contamination under Chapters 173-400 WAC and 173-460 WAC. This process is generally known as new source review. Local air quality authorities are responsible for most NSR in their jurisdictions. Local authorities may either use Ecology's regulations or write their own.

Historically, Ecology's rules have not been clear as to what sources must undergo NSR and what sources do not. This lack of clarity has been frustrating to industry and many air quality authorities.

Ecology is attempting to both clarify and streamline its NSR process and focus resources on areas that have the most impact on air quality. The bulk of this effort is directed towards the process that a source follows when modifying or constructing a new source of air pollution.

Ecology has worked with representatives from industry, local government and the environmental community to improve the NSR process. Ecology believes the proposed new process is less burdensome on both industry and air quality authorities and yet is adequately protective of air quality.

Authority

RCW 70.94.152 authorizes Ecology to require new or modified sources of air pollution to obtain approval to construct and operate. An amendment² to the Washington Clean Air Act by the 1996 Legislature directs Ecology to establish de minimis exemptions to its NSR program.

As noted above, Chapter 173-400 WAC is the major implementing regulation for regulating air pollution sources. Chapter 173-460 WAC provides the requirements for new sources of toxic air pollutants (TAPs). The federal new source review program does not require minor sources to undergo new source review. It is important to note that

¹ WAC 173-400-030(47) defines new source as:

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

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

² SSB 6466

minor new source review programs have generally been left to the states to develop and implement.

Ecology's Rule Making Objectives

The development of the proposed approach involved consideration and balancing of several goals or objectives:

- Protection of human health and the environment. The NSR program seeks to prevent emissions that pose a threat to human health and the environment by establishing appropriate requirements when an emission unit is built or modified. Ecology wants to identify and correct situations where the current program imposes application and review burdens on installations or changes without providing meaningful environmental benefits.
- Administrative efficiency. An important objective of the proposed approach is to focus permitting resources on important emission sources.
- Keep it simple. The rule should be easily understood, consistent and help avoid a cluttered unmanageable permit process.
- Consistency. The rule should help standardize the actions of permit writers and simplify the evaluation of the process by permit writers, consultants, the regulated community, and the public.
- Flexibility. The rule should provide options to sources and permit writers when dealing with the NSR process.

Relationship to Other Programs and Requirements

There are several programs and requirements that are related to the NSR program. These include:

- Air Operating Permits. Major stationary sources³ are required under federal and state law to obtain an air operating permit (AOP). AOPs must contain all the

³ WAC 173-400-030 (40) defines major stationary source as:

(a) any stationary source which:

(i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Acts; or

(ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen.

(b) any stationary source (or group of stationary sources) which:

federally enforceable requirements that apply to the source. Such requirements include orders written in the NSR process.

Chapter 173-401 WAC, the Air Operating Permit Rule, exempts some equipment and activities from the requirements of the permit. Those exemptions, known as insignificant emission units (IEUs), were created both by listing specific equipment and activities in rule as exempt and by developing emission thresholds that define insignificance for the purposes of the Air Operating Permit (AOP).

- Registration Program. The Registration Program is the means by which air authorities in Washington State track and inventory air emissions from non-major sources. WAC 173-400-100 lists sources categories that must register with Ecology (in those counties without an active local air quality authority). Presently, any source on that list must go through NSR if it is being built or modified.⁴

WAC 173-400-102 provides for de minimis exemptions for very small sources from the Registration Program. The same emission thresholds are used to define exemptions in the Registration and AOP programs.

Initially, there was substantial interest among the stakeholders for using one list to define what must register and go through NSR and another list to define what is exempt from

(i) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or

(ii) is located in a "serious" particulate matter (PM₁₀) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM_{2.5} emissions.

(c) any physical change that would occur at a stationary source not qualifying under (a) or (b) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself,
ozone;

(d) a major stationary source that is major for VOCs or NO_x shall be considered major for

(f) for purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all 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). 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.

⁴ WAC 173-400-110(I)(a).

NSR, registration and the AOP. However, further study will be required to determine the appropriateness of linking the three programs so closely together.

One purpose of the NSR permitting program is to characterize a given facility in such a manner that the authority can assess its potential impact on air quality. It is Ecology's position that all de minimis activities should be exempt regardless if they came from a major facility or small operation.

- Other Requirements. Other requirements from Chapter 173-400 WAC apply to all units whether or not those units are exempt from NSR. For example, if an exempt de minimis source has odor problems, that source is subject to Ecology's general standards for maximum emissions WAC 173-400-040. WAC 173-400-040 also:
 - prohibits visible emissions that exceeds twenty percent opacity. There are several exemptions to this rule. (see WAC 173-400-(1));
 - prohibits emissions of particulate matter from any source to be deposited beyond the property line;
 - owners or operators of an emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:
 - sources located in an attainment area and not impacting any nonattainment area, must take reasonable precautions to prevent the release of air contaminants from the operation;
 - emission units that are identified as a significant contributor to the nonattainment status of a designated nonattainment area, must use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated;
 - prohibits the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property and must use recognized good practice and procedures to reduce these odors to a reasonable minimum,
 - prohibits any emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business;

- prohibits the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes. There is an exemption see. (WAC 173-400-040(6));
- prohibits the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this Chapter 173-400 WAC,
- requires a source of fugitive dust to take reasonable precautions to prevent fugitive dust from becoming airborne and requires the maintenance and operation of the source to minimize emissions;

Major Conceptual Issues and their Resolution

Ecology began the NSR Reform Project in the Winter of 1995. As part of the early stages of the project Ecology developed a scoping paper that took a broad look at the issues associated with the NSR process. That scoping paper can be found in Appendix III. As Ecology worked with interested parties through this process a more refined set of conceptual issues emerged. Specific technical issues are also raised and discussed later in this document. Those more refined issues follow.

Issue

Applicability-Equipment: Determining to what equipment the NSR requirements should apply, to was a challenge that remained throughout this process. There are three ways to express applicability for the purposes of Ecology's minor NSR program.

- Define what must go through NSR: Ecology could list specific pieces of equipment, equipment that has applicable federal new source standards and develop emission levels for non-listed equipment to be used as applicability criteria. Every new source that is listed, or emits above the thresholds must go through NSR.
- Define what is exempt from NSR: Alternatively, Ecology could list equipment and create thresholds that define units that are exempt from NSR. Units that are on the list, or emit below the thresholds would be exempt from the NSR requirements.
- Hybrid: Ecology could develop a rule that lists both equipment that must always go through NSR, a list of equipment that is always exempt from NSR and then develop emission thresholds to be used as criteria to determine if equipment that does not fall on either list must go through NSR, or if it is exempt.

Resolution

Ecology decided to define what is exempt from NSR with a list of categorically exempt equipment and emission thresholds that determine NSR applicability for non-listed equipment. Many interested parties had originally preferred the hybrid model. However, many permit writers who reviewed earlier drafts of the rule language found the hybrid system confusing. Consequently, Ecology opted to develop a list of exempted equipment and thresholds to define the status of non-listed equipment. This approach seems to be less confusing and is more consistent with the Legislative requirements in RCW 70.94.152(10) that requires Ecology to determine what sources are de minimis.

Issue

Applicability-Local Rules: Another component of applicability is how these rule changes impact local air quality authorities. Historically, in jurisdictions that used their own SIP approved⁵ NSR rules, new sources were subject to both the State and local requirements. In the past that was typically only a theoretical problem because local rules would be used to review the new source in lieu of the State rules. This situation is no longer a theoretical problem.

Title V of the federal Clean Air Act requires that all major sources obtain Air Operating Permits (AOP). These permits are to include all federally enforceable requirements that apply to the source. The source must also certify that they are in compliance with all federally enforceable applicable requirements. This is difficult for some major sources that have had new sources permitted under local rules and are not sure if that makes them automatically in compliance with State NSR rules.

Further, Ecology is certain to include equipment on the exemption list and use the some thresholds that a few local authorities will find objectionable given their local situation. This is particularly true for local authorities that either have nonattainment areas or are engaged in maintenance activities.

Resolution

Ecology will clearly express that the State rules (WAC 173-400-110, 112, and 113) do not apply where a local authority has its own SIP approved NSR rules.

Issue

Interpretation of the definition of new source. Over the last several years Ecology has struggled with interpreting when change at an existing facility constitutes a new source. In some interpretations, changes that resulted in net emissions decreases from a stationary source constituted a new source requiring both the installation of BACT as well as an ambient analysis.

⁵ State or local rules that are incorporated into the State Implementation Plan (SIP) are federally enforceable.

Resolution

The Air Quality Program has written a policy for internal Ecology use that clarifies that for a change to constitute a new source it must 1) result in a net emissions increase from the stationary source being modified or 2) constitute a new source under the federal NSR program. Ecology does not anticipate any rule makings stemming from this policy.

Issue

Are units considered de minimis for the purposes of NSR the same as units considered insignificant for the purposes? In 1994 Ecology established Insignificant Emission Units (IEUs) for the purposes of the Air Operating Permit Program. IEUs were generally exempt from the requirements of the operating permit. IEUs are established both by categorical listing as well as emission threshold. Many have suggested using one list for both programs to reduce confusion. Others have further suggested that Ecology should simply use the list for in Chapter 173-401 WAC (The Air Operating Permit Rule) for the purposes of the NSR program.

Ecology agrees with the basic premise that it would be less confusing and streamline our regulations if we used the same list for both the NSR and AOP programs. However, Ecology disagrees that it should simply use the IEUs for the purposes of the NSR program. These are different programs with different purposes. The AOP Program brings together all federally enforceable applicable requirements into one document to which a source is subject and establishes reporting, record keeping, monitoring and compliance certification requirements. It does not establish new control requirements. Therefore, when a unit is exempt from the requirements of the AOP, that exemption provides administrative relief to the source, but it does not impact emissions.

However, those units that are exempt from NSR will generally be exempt from any review requirements and will be exempt from using Best Available Control Technology (BACT). Therefore, these exemptions could potentially have an impact on air emissions. Ecology believes a higher standard should be set in establishing these exemptions.

Resolution

Ecology developed a list of de minimis equipment and de minimis thresholds independent from the IEUs (see below for more detail). However, Ecology will explore replacing the list of IEUs with the final de minimis list of equipment and thresholds as part of the AOP Rule amendment process.

Conceptual Framework for New Source Review

It was Ecology's intent from the beginning of the NSR Evaluation Project to take a broad look at our NSR program and to be willing to look at alternative conceptual models for doing minor NSR. The recent changes in the Washington Clean Air Act discussed above provided Ecology with some legislative direction in making those changes.

Existing Framework

Presently, Ecology's NSR rules require all new sources listed in WAC 173-400-100 to go through NSR. These sources tend to be listed as whole facilities (i.e. 173-400-100(bb) paper manufacturing and 173-400-100(cc) petroleum refineries). 173-400-110(b) states that ecology or the authority may require that a Notice of Construction (NOC) application be filed. . . and an approved issued . . . prior to the establishment of any new source. . .

Further, prior to SSB 6466 BACT was required for all new sources under State law. Given the wording of WAC 173-400-110 and the old requirement for BACT for all new sources, two interpretations became common.

- Any new source or stationary source⁶ (including all modifications) at a facility listed in 173-400-100 is automatically subject to NSR, no matter its size.
- Because all sources had to be at BACT prior to the change in the law mentioned above and a Professional Engineer employed by Ecology or the authority must review all BACT determinations⁷, all sources and stationary sources, including modifications, but excluding single family and duplex dwellings⁸, are required to file a NOCA. Consequently under some interpretations there was no level at which a new source or stationary could be considered de minimis.

Proposed Framework

Ecology is proposing four broad conceptual changes to WAC 173-400-110.

- Clarify Relationship Between State and Local NSR Programs. Ecology is proposing language that would clarify that its rules apply state-wide unless a local authority adopts its own rules and those rules are adopted into the State Implementation Plan.⁹ As has historically been the case, Ecology would be able to impose its rules in a county where a local air quality authority dissolves.¹⁰
- List of Exempted Equipment. Ecology is proposing to fulfill part of its requirements under SSB 6466 by categorically listing equipment that is exempt from NSR.

⁶ RCW 70.94.030(22) and WAC 173-030(74) define stationary source as any building, structure facility or installation that emits or may emit any air contaminant. However, WAC 173-400-030(74) goes on to specifically exclude mobile sources.

⁷ RCW 70.94.151(3).

⁸ 70.94.151(1).

⁹ EPA requires certain state and local rules be adopted into the State Implementation Plan which among other things, makes the rules federally enforceable.

¹⁰ A dissolution typically occurs when a county opts out of an existing local authority and does not establish their own authority. Examples include Grant, Franklin and Walla Walla counties.

Equipment on this list would not be subject to any administrative requirements.

- De Minimis Thresholds. Because it is impossible to list all equipment and modifications that should be appropriately exempt from NSR, Ecology is proposing threshold levels, based on tons per year, that would identify exemptions for non-listed equipment and modifications. Units and modifications with emissions below the thresholds will be exempt from installing BACT. However, the source may be required to submit a project summary to show that the unit or modification is below the thresholds.

In the case of de minimis thresholds, the permitting authority would maintain the ability to require a NOC even if the source is below the thresholds. This is necessary to protect against odor and other nuisance problems stemming from certain small sources. For example, commercial composting operations may not exceed any of the emissions thresholds, but are capable of creating enormous odor problems. These problems can be mitigated with appropriate controls. Therefore it is appropriate to require NSR and BACT for such facilities as they are being constructed.

- Remove WAC 173-400-100 as the List of Sources That is Always Subject to NSR. Ecology's original intent was to have a list of exemptions, a list of units that must always go through NSR, and emission thresholds by which to judge all non-listed units. Several drafts were written using this approach and circulated to Ecology and local permit engineers for their review. Unfortunately, all drafts were found to be confusing. Because the Legislature directed Ecology to establish de minimis exemptions, and that all sources that are required to file a Notice of Construction Application (NOCA) must be shown to use BACT, Ecology is proposing to use the exemption list and drop having a list of units that must always go through NSR. The effect of this proposal is to require all sources that are not exempt either by listing or threshold to file a NOCA and use BACT.

The Process Used to Identify De Minimis Levels

De Minimis Equipment Starting Point

Ecology asked representatives from the industrial community to provide a list of units and activities that they believe should be exempt from NSR as the point from which to develop the list of de minimis equipment. The list Ecology received was very similar to the list of insignificant emission units found in Chapter 173-401 WAC. The list was distributed to local air quality authorities and representatives of the environmental community for their review.

De Minimis Equipment Evaluation Criteria

Ecology used two major criteria to evaluate whether a unit should be listed as de minimis. These include:

- Emission Thresholds. Where possible Ecology used the emissions thresholds listed in tables 1 and 2 to determine if a unit should be listed as de minimis. It is important to note that Ecology had to make many assumptions (such as likely hours of operation, emission rates etc.) throughout this process. Units that were estimated to have emissions below the thresholds listed in tables 1 and 2 were placed on the list of de minimis equipment.
- Historical Permitting Requirements. Many units and activities have small, but unknown emission levels. The reason these emissions levels are unknown is typically because the emissions were presumed to be so trivial that they did not warrant study. For many such units BACT does not exist, and no controls would be required even if the unit was sent through the present NSR process. Consequently, while emissions cannot be accurately estimated for such units, Ecology believes it is appropriate to exempt them because they have no available controls. In developing this list, Ecology gave great deference to local air quality authorities. If there was an item on industry's original list that anyone of the seven local authorities had control requirements for, Ecology generally removed the item from consideration as de minimis.

It is important to note that no unit that has applicable federal requirements may be considered de minimis. Ecology intends to periodically review the exemption list to add or subtract items as appropriate. It is extremely important that Ecology closely watch for federal requirements that apply to either equipment listed as exempt or equipment or modifications with emissions that fall below the de minimis thresholds.

Emission Thresholds for Criteria Pollutants

For the purposes of the Air Operating Permit Program Ecology, as best as possible, established health-based insignificance levels for criteria air pollutants. Ecology chose to use the same thresholds because they are health-based figures and represent an appropriately protective approach for defining de minimis in the context of NSR.

For the purpose of defining de minimis thresholds, Ecology is proposing to use emissions thresholds for criteria pollutants that are equal to five percent of the Prevention of Significant Deterioration (PSD) significance levels defined in 40 CFR 52.21 (b) (23). The specific thresholds are shown in Table 1.

II. Rule Making Schedule

The thirty-one day public comment period for the proposed amendments ended September 5, 1997. Public workshops and hearings were held on the proposed amendments August 26, 27 and 28 in Vancouver, Bellevue and Spokane, respectively.

Ecology's director will consider public comments, the responsiveness summary and staff recommendations, and make a decision regarding adoption of the proposal. That review should be completed no later than

III. The Public Involvement Process

Documents related to public involvement are located at the end of this responsiveness summary in Appendix 1. Copies of the original written comments are contained in Appendix 2.

Public Hearings

As previously mentioned, public hearings on the proposed amendments were held in Vancouver, Bellevue and Spokane, respectively. Notices of those hearings were sent to the following papers: The Columbian (Vancouver), The Daily Journal of Commerce (Seattle/Bellevue) and the Spokesman Review (Spokane). The proposed amendments and hearing notices were also published in the Washington State Register in Issue 97-15.

Prior to the formal recorded hearings, staff provided presentations outlining the proposed regulation and also informally discussed the proposed amendments, and related issues, with interested persons. The hearings were held at the following locations:

August 26, 1997	Vancouver Fire Station 88 6701 N.E. 147 th , Vancouver, WA 6:00 p.m.
August 27, 1997	Department of Ecology, Northwest Regional Office 3190 160 th Ave. SE Room 1-C Bellevue, WA 2:00 p.m.
August 28, 1997	Spokane Library West 906 Main ST. Spokane, WA 6:00 p.m.

IV. Changes Made to the Rule Language Based on Public Comment (Concise Explanatory Statement)

The following is the concise explanatory statement required by RCW 34.05.355, stating (a) Ecology's reasons for adopting the rule and (b) a description of any differences between the text of the proposed rule as published in the State Register and the text of the rule as adopted, other than editing changes, and the reasons for the change.

Ecology's Reasons for Adopting the Proposed Rule

The purpose of the proposed amendments is to clarify and streamline the NSR process, and to comply with the legislative requirements as outlined in SB 6466. This rule making is one of several regulatory reform efforts Ecology will implement over the next few years.

Differences Between the Text of the Rule as Proposed and as Adopted

The proposed amendments were developed in conjunction with representatives from EPA, local air authorities, the regulated community and environmental groups. After reviewing the comments received during the public comment period, Ecology made the following changes to address those comments:

- WAC 173-400-110(1) Applicability: Ecology proposed to make a clear distinction between its NSR program and those of the locals. The change would make it clear that a source is only subject to one program, not both as historically has been the case (Ecology's program applies state-wide regardless of whether a local has their own program). This was not a problem in the past as sources simply went through the local program and not Ecology's where applicable. However, Title V sources must show compliance with all applicable requirements. Therefore, any unclear applicability issues make the Title V process more difficult and increase legal risks for Air Operating Permit holders.

The proposed language made the necessary distinction between NSR programs, but also link the distinction with the local rules being consistent with WAC 173-400-020 which includes language requiring local rules to be as stringent as the state's. Many commentators from local authorities and industry disagreed with the connection to WAC 173-400-020. Ecology agrees noting that there are applicability issues through the provisions of Chapter 173-400 WAC. Those issues need to be addressed as a group, not in the context of NSR. Ecology has initiated a process to look at those

types of issues and intends to include the results in the next round of revisions to Chapter 173-400 WAC.

- WAC 173-400-110(4) Emission unit and activity exemptions: Ecology received many comments regarding individual equipment exemptions from both local authorities and the regulated community. Several changes that were made based on those comments. They are very detailed and are highlighted under “Revisions Made to the Rule Based on Public Comment”.
- WAC 173-400-110(5) Exemptions based on emissions thresholds: Ecology received many comments on this section. Stemming from those comments, Ecology made two changes. First, several commentors from the regulated community noted that the wording of this section did not provide for closure. Sources notifying the agency would not know if their source was exempt or not. As such, Ecology included a timeline for agency action, beyond which the source has tacit approval. Such a timeline was in previous drafts of these rule amendments.

Second, Ecology inadvertently omitted a threshold for Total Suspended Particulate (TSP). Ecology has added that threshold and made in consistent with the other criteria pollutant thresholds (5% of PSD significance levels).

- WAC 173-400-110(11) Emergency installations: Ecology added a paragraph that allows for the temporary installation of equipment in emergency situations that threaten life or property. A source installing emergency equipment must notify Ecology or the authority and must use BACT.
- WAC 173-400-110(12) Change of conditions: Two changes were made to the change of conditions section. First, it was clarified that a source must continue to use BACT as defined in the original order of approval. Second, it was clarified that if a source requests a change through a notice of construction that the fee schedule in WAC 173-400-116 applies.

Revisions Made to the Rule Based on Public Comment

Following are the sections of the proposed rule that are being revised based on public comment. An underline (example) denotes language that has been added to the original rule. A strikethrough (~~example~~) indicates text that has been removed from the original rule. Shaded text (~~example~~) indicates text that has been changed from the proposed language.

WAC 173-400-110 New source review (NSR). (1)Applicability.

This section, WAC 173-400-112 and WAC 173-400-113 apply statewide except where an authority has adopted and is implementing its own new source review regulations and those regulations are incorporated into the State Implementation Plan. ~~The exemption is subject to the provisions of 173-400-020~~

(a) (2) **Projects subject to NSR.**

A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source, or emission unit, or modification ~~except for those sources exempt under paragraphs (4) or (5) of this section which is listed in WAC 173-400-100 or required to obtain a permit under RCW 70.94.161.~~

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030(9), and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030(4).

Notwithstanding any other subsection of this section, a notice of construction application must be filed and an order of approval issued by ecology or an authority prior to establishment of any of the following new sources:

(a) 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 Part AAA, Wood stoves);

(b) any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (except for asbestos demolition and renovation projects subject to 40 CFR 61.145);

(c) any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants);

(d) any project that qualifies as a major stationary source, as defined in WAC 173-400-030(41), or a major modification, as defined in WAC 173-400-040(40);

(e) any project that requires an increase in a plant-wide cap or unit specific emission limit.

~~(b) ecology or the authority may require that a notice of construction application be filed by the owner or operator of a proposed new source or modification and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.~~

(e3) **Modifications.**

New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(4) **Emission unit and activity exemptions.**

Except as provided in subsection (2) above, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a notice of construction application.

(a) **maintenance/construction**

(i) **cleaning and sweeping of streets and paved surfaces.**

(ii) **concrete application, and installation.**

- (iii) dredging wet spoils handling and placement,
- (iv) paving application and maintenance, excluding asphalt plants,
- (v) plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing soldering, plumbing, retarring roofs, etc.)
- (vi) plumbing installation, plumbing protective coating application and maintenance activities,
- (vii) roofing application,
- (viii) insulation application and maintenance, excluding products for resale,
- (ix) janitorial services and consumer use of janitorial products,

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

- (i) lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils,
- (ii) polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation
- (iii) storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions,
- (iv) process and white water storage tanks
- (v) operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft),
- (vi) operation, loading and unloading of storage tanks, \leq 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,
- (vii) operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons,
- (viii) tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids,

(c) a project with combined aggregate heat inputs of combustion units, \leq all of the following:

- (i) \leq 500,000 Btu/hr using coal with \leq 0.5% sulfur or other fuels with \leq 0.5% sulfur,
 - (ii) \leq 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610,
 - (iii) \leq 400,000 Btu/hr wood waste or paper,
 - (iv) $<$ 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with \leq 0.05% sulfur,
 - (v) \leq 4,000,000 Btu/hr using natural gas, propane, or LPG,
- (d) material handling
- (i) continuous digester chip feeders,

(ii) grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the US Department of Agriculture,

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

(iv) equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallons, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mmHg @ temperature of handling with lids or other appropriate closure,

(e) water treatment

(i) septic sewer systems, not including active waste water treatment facilities,

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

(iii) de-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in Chapter 173-460 WAC are not emitted,

(iv) process water filtration system and demineralizer vents,

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

(vi) demineralizer tanks

(vii) alum tanks,

(viii) clean water condensate tanks,

(f) environmental chambers and laboratory equipment

(i) environmental chambers and humidity chambers not using Toxic Air Pollutant gases, as regulated under Chapter 173-460 WAC,

(ii) gas cabinets using only gases that are not Toxic Air Pollutants regulated under Chapter 173-460 WAC,

(iii) installation or modification of a single laboratory fume hood,

(iv) laboratory calibration and maintenance equipment,

(g) monitoring/quality assurance/testing

(i) equipment and instrumentation used for quality control/assurance or inspection purpose,

(ii) hydraulic and hydrostatic testing equipment,

(iii) sample gathering, preparation and management,

(iv) vents from continuous emission monitors and other analyzers

(h) miscellaneous

(i) single family residences and duplexes,

(ii) plastic pipe welding,

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

(iv) comfort air conditioning,

(v) flares used to indicate danger to the public,

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

(vii) personal care activities,

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

- (ix) tobacco smoking rooms and areas,
- (x) non-commercial smokehouses,
- (xi) blacksmith forges for single forges,
- (xii) vehicle maintenance activities, not including vehicle surface coating,
- (xiii) vehicle or equipment washing (see (c) for threshold for boilers)
- (xiv) wax application,
- (xv) oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment,
- (xvi) ozone generators and ozonation equipment,
- (xvii) solar simulators,
- (xviii) ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in Chapter 173-460 WAC are not emitted,
- (xix) electrical circuit breakers, transformers, or switching equipment installation or operation,
- (xx) pulse capacitors,
- (xxi) pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives,
- (xxii) fire suppression equipment,
- (xxiii) recovery boiler blow-down tank,
- (xxiv) screw press vents,
- (xxv) drop hammers or hydraulic presses for forging or metal working,
- (xxvi) production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight,
- (xxvii) Kraft lime mud storage tanks and process vessels,
- (xxviii) lime grits washers, filters and handling,
- (xxix) lime mud filtrate tanks,
- (xxx) lime mud water,
- (xxxi) stock cleaning and pressurized pulp washing, down process of the brown stock washer,
- (xxxii) natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities,
- (xxxiii) non-Toxic 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 mmHg @ 21°C,
- (xxxiv) surface coating, aqueous solution or suspension containing \leq 1% (by weight) VOCs, and or Toxic Air Pollutants as defined in Chapter 173-460 WAC,
- (xxxv) cleaning and stripping activities and equipment using solutions having \leq 1% VOC's (by weight); on metallic substances, acid solutions are not exempt,
- (xxxvi) dip coating operations, using materials less than 1% VOC's (by weight) and or Toxic Air Pollutants as defined in Chapter 173-460 WAC.

(5) Exemptions based on emissions thresholds.

(a) Except as provided in subsection (2) above and in this subsection:

(i) a new emissions unit that has a potential to emit below each of the threshold levels listed in the table contained in subpart (d) is exempt from new source review provided that the conditions of subpart (b) are met.

(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 subpart (d) is exempt from new source review provided that the conditions of subpart (b) are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with ecology or the authority prior to beginning actual construction on the project. If ecology or the authority determine that the project will have more than a de Minimis impact on air quality, ecology or the authority may require the filing of a notice of construction application. Ecology or the authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below.

(c) The owner/operator may begin actual construction on the project thirty-one days after ecology or the authority receive the summary, unless ecology or the authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(d) Exemption threshold table

<u>POLLUTANT</u>	<u>THRESHOLD LEVEL (TONS PER YEAR)</u>
<u>(a) Total Suspended Particulate (TSP)</u>	<u>1.25</u>
<u>(b) PM10</u>	<u>0.75</u>
<u>(c) Sulfur Oxides</u>	<u>2.0</u>
<u>(d) Nitrogen oxides</u>	<u>2.0</u>
<u>(e) Volatile Organic Compounds, total</u>	<u>2.0</u>
<u>(f) Carbon Monoxide</u>	<u>5.0</u>
<u>(g) Lead</u>	<u>0.005</u>
<u>(h) Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)</u>	<u>1.0</u>
<u>(i) Toxic Air Pollutants</u>	<u>As specified in Chapter 173-460 WAC.</u>

(26) Completeness determination.

Within thirty days of receipt of a notice of construction application ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD

review under WAC 173-400-141, a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(37) Final determination.

(a) Within sixty days of receipt of a complete application, ecology or the authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision.

(b) 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 RCW 70.94.161 and the notice of construction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines as outlined in Chapter 173-401 WAC.

(bc) Every final determination on a notice of construction application shall 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 ecology or the authority.

(ed) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(48) Appeals.

An order of approval, any conditions contained in an order of approval, notice of construction application or the denial of a notice of construction application may be appealed to the ~~p~~Pollution ~~e~~Control ~~h~~Hearings ~~b~~Board as provided in chapter 43.21B RCW. Ecology or the authority shall promptly mail 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 and, where applicable, to the EPA Environmental Appeals Board.

(59) Portable sources.

For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, 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 specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(610) Construction time limitations.

Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed

within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. 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 commencement date.

(11) Change of Conditions.

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

(i) the change in conditions will not cause the air contaminant source to exceed an emissions standard;

(ii) no ambient air quality standard or PSD increment will be exceeded as a result of the change;

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

(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.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171.

(c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a notice of construction application, that application shall be acted upon using the timelines found in subsections (6) and (7) of this section. The fee schedule found in WAC 173-400-116 shall also apply to requests filed as notice of construction applications.

V. Summary of Comments and Ecology's Response

Following are the specific comments and Ecology's responses to those comments. Copies of the comment materials Ecology received during the public comment period can be found in Appendix II at the end of this document.

General

Comment: In some places in the rule notice of construction application is capitalized and in some places it isn't. You should be consistent. (Vigeland)

Ecology's Response: Ecology will ensure the phrase is consistently capitalized throughout the rule.

Comment: SWAPCA believes that some form of documentation or notification is required to minimize misunderstandings regarding these exemptions. At a minimum the

source should maintain records on site of all determinations that equipment (emission unit) was not required to go through new source review. This documentation could then be used by the Title V sources to document basis for their insignificant emission units. As an alternative, when requested, DOE or the local could be required to confirm within 90 days that an exemption applies. Another option would be to require all determination to be reviewed by DOE or the local within 60 days of receipt. SWAPCA require all sources using the WAC 173-460-040(2) exclusion from new source review to submit a letter indicating why the unit is not subject to new source review. SWAPCA then notifies the source in writing. SWAPCA believes that without the above measures in place, unnecessary enforcement action would take place. SWAPCA believes that notification will reduce liability for both the source and the authority. (Mairose)

Comment: These exclusions included in this exempt section could allow a large source to modify equipment over a short period of time (1-3 years) and exceed PSD increment levels. These exceedences would occur without the knowledge of the authority because there is no mechanism to track cumulative emission increases. A tracking method and notification requirement is a must to eliminate possible PSD violations. (Mairose)

Ecology's Response: This response applies to the above two comments. Ecology appreciates that there is some risk in how the proposed changes are written in that there is not a paper trail for all decisions and that there is a possibility of Prevention of Significant Deterioration (PSD) problems as well as potential "project creep". However, Ecology is very concerned with burdening the majority of businesses for which this situation will never be a problem to watch the few for which it may a problem. WAC 173-400-110(2) specifically states that these exemptions cannot be used to avoid PSD requirements and that all federal requirements supersede any exemption listed within the rule. This proposal, in essence, provides industry with the trade-off of decrease administrative burden for increased enforcement risk for those facilities that do not keep appropriate records.

WAC 173-400-030 Definitions

Comment: It would increase the clarity of the of the regulation if words or phrases defined in WAC 173-400-030 were italicized in the text where the definition is intended; this would alert the reader that a special definition exists and that meaning, as opposed to the common dictionary meaning, is intended for usage at this point in the text. (Bates)

Ecology's Response: Ecology is currently undertaking a major rule clarification project. Part of that effort will include creating indices and highlighting defined terms. However, to maintain consistency with that project, Ecology will wait until a common format has been decided upon before doing such highlighting.

Comment: Under the definition of "Begin actual construction" a comparison between this proposed definition and this same term in 40 CFR 52.21(b)(11) contain the word

“underlayment” vs. underground,” respectively. The definition should appear exactly as it does in the federal rules. (Bates)

Ecology’s Response: Ecology will ensure that the state wording is the same as the federal.

Comment: In the proposed rule WAC 173-400-110(2) refers to “begin actual construction” as defined in WAC 173-400-030(9). However, WAC 173-400-030(9) defines BACT. Is the definitions section (WAC 173-400-030) changing also? (Vigeland)

Ecology’s Response: The definition section has been re-numbered appropriately.

WAC 173-400-110(1) Applicability

Ecology received several comments regarding a sentence that was added to the applicability section late in the rule development process. That sentence is highlighted here and copied in its context:

- This section, WAC 173-400-112 and WAC 173-400-113 apply statewide except where an authority has adopted its own new source review regulations and those regulations are incorporated into the State Implementation Plan. *The exemption is subject to the provisions of 173-400-020.*

Because Ecology received so many comments on the same subject, they are all listed below and one response is provided.

Comment: Exemption language is unclear, clarify what is meant by “exemption” (Mrazek)

Comment: Exemption language is not necessary, confusing, has no value and should be deleted. (Riley, Johnson, Bennett, Moore)

Comment: The exemption language appears to support a view that local agency rules can be no different than those of the WAC. This would subvert the best attempts of all local air pollution control agencies to fine-tune and improve their rules. (Bennett, Moore)

Comment: Puget Sound Air Pollution Control Agency objects to the provision that states “this exemption is subject to the provisions of WAC 173-400-020”. PSAPCA objection stems from WAC 173-400-020 that states that standards and requirements adopted by local authorities must be at least as stringent as those of the state. This language arguably exceeds Ecology’s authority to establish regulations under RCW 70.94.331 (Powers and duties of the department).

PSAPCA supports Ecology drawing a clear distinction between areas where Ecology's rules apply, and areas where local rules apply. In this case, the distinction being that Ecology's NSR program would only apply in areas where there is no SIP¹¹ approved local NSR program. (Kircher)

Comment: We (PSAPCA) encourage Ecology to review local new source review programs before submitting them to EPA for review and inclusion in the SIP. However, Ecology should limit the review to its statutory requirements under RCW 70.94.331. . . . When Ecology reviews an authorities new source review program, we encourage Ecology to review the program as a whole. . . . (Kircher)

Comment: As proposed, the establishment of de minimis new sources by Ecology severely limits the ability of local authorities to address region-specific air pollution problems through new source review. RCW 70.94.152(1) specifically says that an authority may require notice of the establishment of any proposed new source except single family or duplex dwellings. The statute then also excludes de minimis new sources as defined in rules adopted under RCW 70.94.152(11). That section says new source review shall not be required for sources that the department or board has determined to have a de minimis impact on air quality. This leaves authorities in an unacceptable position. If Ecology determines that a source or a level of emissions is de minimis, all authorities must also exclude that source or level of emissions. . . . (Kircher).

Ecology's Response: Ecology agrees that the sentence in question poorly represents the relationship between Ecology and local authorities new source review programs. As such, Ecology has changed the language to provide for the separation of programs, but maintain Ecology's ability to fulfill its responsibilities under Chapter 70.94 RCW.

Ecology acknowledges that the precise SIP approval process is not clear. However, Ecology believes that WAC 173-400-110 is not the place to make such clarifications. Ecology will coordinate a process among Washington's Control Officers whereby the issue of how elements of local rules are reviewed and approved into the SIP will be settled. Within that process, will be a discussion of where and under what circumstances Ecology's rules apply.

Ecology fundamentally disagrees that the wording of the proposed rule would restrict a local authority's ability to regulate any item on the exemption list. It is clear in both the law and the rule that a local authority with a SIP approved program can be more stringent than Ecology.

Ecology will change the applicability section to read:

¹¹ Any requirement that is approved in to the State Implementation Plan (SIP approved) is federally enforceable.

- This section, WAC 173-400-112 and WAC 173-400-113 apply statewide except where an authority has adopted and is implementing its own new source review regulations and those regulations are incorporated into the State Implementation Plan. *The exemption is subject to the provisions of 173-400-020.*

WAC 173-400-110(2) Projects subject to NSR

Comment: The revisions improve the organization of this section. (Mrazek)

Comment: The introduction of the term “project” in this section is ambiguous and confusing. “Project” can both be defined too broadly, or too narrowly. Ecology should continue to use the terms new source, modification and emission unit. (Mairose, Mrazek)

Comment: To eliminate redundancy from implicit reference to definitions, revise as follows, “shall mean to “begin actual construction,” and “new source” shall include any modification to an existing stationary source. Notwithstanding . . . (Bates)

Ecology’s Response: This response applies to the above three comments. Ecology remains comfortable with the use of the term “project”. It better describes the range of activities that may occur in permitting a new source.

Comment: With the deletion of the terms “emission unit” and “modification” in the first paragraph of Subsection 173-400-110(2) one could assume incorrectly that a modification is not required to be reviewed. (Mairose)

Ecology’s Response: Ecology believes this issue is satisfactorily addressed as WAC 173-400-110(2) reads “. . .”new source” shall include any modification to an existing source, as defined in WAC 173-400-030(43).”

Comment: To eliminate redundancy from implicit reference to definitions, revise as follows, “. . .shall mean to “begin actual construction” and “new source” shall include any modification to an existing stationary source. Notwithstanding. . .”

Ecology’s Response: Ecology remains comfortable with the proposed language.

Comment: The addition and use of the term “Begin Actual Construction” in WAC 173-400-030(9) to define when a new source is “established” might constitute an unwelcome change. If the effect of this proposal is to require the receipt of a final Order of Approval prior to beginning any physical on-site construction activities, it would represent a change from the historic practice and guidance of Ecology and several local authorities.

The current understanding is that a permittee can proceed with below ground preparatory project work following the issuance of a preliminary determination on a NOCA. The understanding has always been very clear that work proceeds at the permittee’s risk; i.e.

comments received and final agency decisions could force a change in the scope of the project and render the accomplished work unusable. Aboveground project construction could only begin with the receipt of a final approval order.

Our wish is that the phrase "...an order of approval issued by ecology or the authority..." will continue to be interpreted to include the issuance of preliminary determination on an NOCA. Such an understanding can save the permittee 35-45 days on a project schedule.... (Johnson)

Ecology's Response: The change in terms makes Ecology's rules more consistent with the federal program and was formally requested by the business community and informally supported by EPA Region X and several local authorities. It is Ecology's understanding that the below ground work mentioned above can proceed prior to final permit issuance, as historically has been the case.

Comment: Section WAC 173-400-110(2), Projects subject to NSR, second paragraph, the reference to WAC 173-400-030(43) should read WAC 173-400-030(44) to correctly correspond to the new numbering system. (Bates)

Ecology's Response: The citation will be corrected.

WAC 173-400-110(4) Emission unit and activity exemptions

Comment: Subsection 173-400-110(4) introduces new source review. It is unclear if you are exempt from submitting a Notice of Construction. Current rules are confusing on when to submit a NOC vs. NSR. Submission of an NOC does not necessarily trigger NSR. That is why SWAPCA advocates changing the title of this section or adding a section to address when to submit an NOC. (Mairose)

Ecology's Response: Ecology believes that Subsection (4) makes it very clear that for sources on the list neither NSR nor the filing of an NOC is required. That section reads: .. "establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. . . The installation of or modification of a unit exempt under this subsection does not require the filing of a notice of construction application."

Comment: In WAC 173-400-110(4)(b)(i), the term "lubricating" is misspelled. (Vigeland)

Ecology's Response: The spelling has been corrected.

Comment: In WAC 173-400-110(4)(b)(iii), there is concern that some of these tanks may emit odors that would be offensive. Could language be added that to prevent the exemption being applied to liquids that give off unpleasant odors? (Vigeland)

Ecology's Response: Ecology considered such language but found that it is either very hard to define, or it creates undue burdens on the vast majority of cases to protect against problems from a small minority of cases. As such, Ecology will use its nuisance regulations to target problem sources.

Comment: Subsection 173-400-110(4)(b)(iv) exempts process storage tanks which could include large solvent storage tanks. The term process tank is used in many industries that would include any tank at a petroleum refinery or chemical plant. There (sic) could be subject to many federal requirements. The white water storage tanks at a paper mill could be subject to the wastewater provisions of the new applicable federal requirement (40 CFR 63). SWAPCA would recommend dropping this exclusion. (Mairose)

Ecology's Response: Ecology agrees that determining applicability for storage tanks can be difficult. However, Ecology does not want to impose NSR requirements for the very little tanks that can be found throughout industry. As such, a note will be added to the rule strongly recommending the owner or operator contact Ecology or the appropriate local authority to determine if a tank is exempt prior to installation.

Comment: Subsection 173-400-110(4)(b)(vii) has an applicable federal requirement (40 CFR "Chemical Accident Prevention Provisions"). SWAPCA would recommend dropping the exclusion or lowering the exemption to less than 10,000 pounds of fuel, site wide capacity, in order to be consistent with 40 CFR 68. (Mairose)

Ecology's Response: Ecology believes that it would be inappropriate to link 112(r) provisions with new source review. The 112(r) provisions stand-alone and impact far more than traditional air control sources (e.g. propane storage, cold storage, etc.).

Comment: In WAC 173-400-110(4)(c) it should be clarified whether the given ratings are input or output. I believe the correct specification would be input. (Vigeland)

Ecology's Response: Ecology has clarified that heat input is the proper rating.

Comment: In WAC 173-400-110(4)(c) it should be clarified whether this is for internal or external combustion units or both. I believe it should be limited to internal combustion units. (Vigeland)

Ecology's Response: Ecology intends to allow for both internal and external combustion units.

Comment: Subsection 173-400-110(4)(c) has various heat input limitations that may be based on other regulations. To assist the public you could add reference to the WAC regulations that limit the fuel input. (Mairose)

Ecology's Response: The fuel limitations were set by assuming the unit would operate 16 hours per day, five days per week. Then, the amount of allowable fuel was back calculated using the emissions thresholds listed below.

Comment: Subsection 173-400-110(4)(c) excludes all combustion devices which includes flares and control devices. Control devices and flares treating up to 70 tons per year of VOC (benzene) without any monitoring requirements would be exempted. Combustion devices should therefore be limited only to devices primarily used to heat a process fluid or heat treat metal. (Mairose)

Ecology's Response: Generally flares are not fired by the fuels listed in this exemption. The most common flares are those at refineries and landfills. The refinery flares are burning refinery gas, which is not listed as exempt and has its own NSPS. Landfill flares are regulated under a different piece of law. Some cold storage systems use LPG flares as safety devices. Ecology is not interested in permitting such flares.

Comment: In WAC 173-400-110(4)(c), . . . fuels are specifically listed with Btu/hr limit. There is no mention of refinery fuel gas as a fuel. The only place refinery fuel gas could be interpreted to be exempt is in (I) but it does not seem to be the intent of this sentence since it is discussing coal. A solid fuel. We would suggest listing refinery fuel gas separately with a limit of 4,000,000 Btu/hr. (Riley)

Ecology's Response: It is Ecology's understanding that there is a federal New Source Performance Standard (40 CFR Part 60 Subpart J) for refinery fuels. As such, that fuel is automatically disqualified from exemption. If certain small sources burning refinery gas are exempt from the NSPS, they can be exempt from Ecology's NSR process using the emission thresholds.

Comment: Subsection 173-400-110(4)(d)(iv) would not limit emissions. The maximum concentration of VOC in the tank exhaust could be as high as 6,500ppm. Large tanks with over 3.5 million gallons capacity could result in VOC emissions over 7.5 tons per year. SWAPCA recommends a tank capacity limit of 1.0 million gallons which results in a VOC exemption level of approximately 2 tons per year. (Mairose)

Ecology's Response: Ecology added the one million gallon limit.

Comment: WAC 173-400-110(4)(e) lists lift stations. If a lift station has a diesel fired generator at it, would this preclude requiring a NOC for the generator? If so, it may not be appropriate to exempt lift stations. (The burning of diesel in generators produces TAP emissions at levels of concern. (Vigeland)

Ecology's Response: It is not Ecology's intent to categorically exempt diesel engines. Such exemptions may be based on emission thresholds.

Comment: In WAC 173-400-110(4)(f)(ii), there is an extra "regulated." (Vigeland)

Ecology's Response: The sentence has been corrected.

Comment: Subsection 173-400-110(4)(f)(iii) could cause confusion for large physical laboratories that have significant toxic emissions limits like Columbia Analytical Services in Longview. SWAPCA would recommend excluding quality control laboratories but not commercial physical laboratories. (Mairose)

Comment: The exemption for laboratory fume hoods should not be limited to one hood. (Mrazek)

Comment: Revise (4)(f)(iii) as follows, "installation or modification of a single laboratory fume hood, not meeting the definition of a toxic air pollutant source under WAC 173-460," (Bates)

Ecology's Response: It is Ecology's intent to exempt the installation of a fume hood no matter the source is that is installing it is.

Comment: Subsection 173-400-110(4)(h)(iv) has an applicable requirement (40 CFR 82.150 "Recycling Emissions Reduction") for the category. SWAPCA would recommend dropping this exemption. (Mairose)

Ecology's Response: 40 CFR 150 (Subpart F) directs the recycling and emission reductions from non-auto air conditioning units. Those requirements remain regardless of the NSR process. Ecology does not believe it is appropriate to implement CFC requirements through NSR and will maintain the exemption.

Comment: In WAC 173-400-110(4)(h)(xxi) is the word "and" missing after the word "tools". (Vigeland)

Ecology's Response: No, the second half of that sentence should have been a stand-alone item. The sentences have been corrected.

Comment: Do you a [sic] "s" after the word "tank" in WAC 173-400-110(4)(h)(xxiii)? (Vigeland)

Ecology's Response: Yes. The sentence has been corrected.

Comment: Subsection 173-400-110(4)(h)(xxxi) has an applicable federal requirement (40 CFR 60.280 "Standards for Performance for Kraft Pulp Mills" –Brown stock washer system). SWAPCA would recommend dropping this exemption. (Mairose)

Ecology's Response: Ecology will make it clear that only washers that are down process of the brownstock washer are exempt.

Comment: Subsection 173-400-110(4)(xxxiii) has applicable federal requirement (40 CFR 60.280 “National Emission Standards for Halogenated Solvent Cleaning”). SWAPCA would recommend adding the clarification that this exclusion is for non-halogenated solvent cleaning. (Mairose)

Ecology’s Response: Ecology is not interested in permitting halogenated solvent cleaners that fall below the NESHAP levels for regulation.

Comment: In WAC 173-400-110(4)(h)(xxxv) and (xxxvi), there shouldn’t be an “” in VOCs. (Vigeland)

Ecology’s Response: The sentences have been corrected.

Comment: Add new subparagraph (xxxvii), “Abrasive blasting, consistent with WAC 173-460-030(2)(c)(v).” (Bates)

Ecology’s Response: Ecology tried several times to develop language that was acceptable to the permit writers regarding an exemption for abrasive blasting. Unfortunately, none was found. Ecology recommends developing some type of boiler plate approval or emission threshold based exemption for typical operations at the Hanford Reservation.

Comment: Concrete scabbing and carbon dioxide pellet (non-abrasive) surface cleaning should be added as exempt activities. These activities are routinely used to clean surfaces, and result in negligible airborne emissions. (Bates)

Ecology’s Response: It is difficult this late in the rule development process to add new exemptions. Ecology recommends developing some type of boiler plate approval or emission threshold based exemption for typical operations at the Hanford Reservation.

Comment: Several commentors requested items be added to the list of exempt equipment. (Rules, Bennett, Moore)

Ecology’s Response: Without passing judgment on any given piece of equipment, Ecology believes it is inappropriate to add new items on the list this late in the rulemaking process. The public should have the opportunity to comment on such additions.

WAC 173-400-110(5) Exemptions based on emission thresholds

Comment: If an agency notification of de minimis installation is required, and Ecology or the permitting agency is given an opportunity to require additional information on the installation to assure that it will have no impact, Ecology or the agency should be required to act on the notification with 30 days. In the latest draft of this section the requirement to respond was omitted. It is essential to provide closure to any questions regarding exemption so that the source is assured that its installation has been properly reviewed

and is acceptable under the regulation. We suggest re-inserting the omitted sentence as it appeared in the last circulated draft. (Bennett, Moore, Bates).

Ecology's Response: Ecology agrees and has re-inserted the sentence.

Comment: The following language should be inserted as the third sentence in subsection (b): "A determination by Ecology or the authority that a notice of construction application must be filed shall be issued within 15 days of receipt of the project summary".

This addition is necessary to provide some confident closure to the project notice process. The short 15 day allowance is consistent with the view that this set of small emission projects should benefit from an expedited review process. (Johnson).

Comment: Revise (5)(b) as follows, "...source review under this section shall provide verbal notification, and upon subsequent request (within 5 days) by the Authority, file a brief project summary with the authority prior to beginning actual construction on the project. If Ecology...." (Bates)

Ecology's Response: The following response is for the above three comments. Ecology agrees in principal. However, Ecology will use a 30 period. This is justified because the applicant can proceed, at his/her own risk after notifying the agency. If the agency does not respond within 30 days, it is considered tacit approval.

Comment: In the context and meaning of a new source subject to a NESHAP, unless otherwise listed as an exemption, it is assumed the NESHAP source is required to file a brief project summary under NSR in addition to the NESHAP requirements. (Bates)

Ecology's Response: As stated in paragraph (2) any source that is a new source under federal requirements is a new source in Washington and not eligible for an exemption.

Comment: Section 110(5)(b) should be completely eliminated. There is no closure mechanism or timeline. There is no obligation for Ecology to respond nor is there any definition of what constitutes a response. Must it be written or is a verbal response acceptable with record keeping at the source? The concept of a project summary ("mini-NOC" or "NOC light") should be eliminated since it effectively removes the exemption otherwise provided. The phrase "de minimis impact on air quality" is undefined. If Ecology has reservation regarding possible odors from new or modified emission units a section should be added stating this directly. Based on our discussion during the public meeting we are nearly certain Ecology will not eliminate this paragraph. The next best option would be to establish a timeline for Ecology response and a closure mechanism. (Mrazek)

Comment: We strongly feel that emissions which qualify for exemption under this section [emissions thresholds] should not require any notification and petition for deleting

section (b) except for the last sentence. If a project is de minimis then the emissions are small enough not to be of concern. This is an area that will require unwarranted manpower for review and documentation from agency personnel and from sources. This is especially true in light of the low emission thresholds proposed. (Riley)

Ecology's Response: This response is for the above two comments. Ecology believes this mechanism is necessary for odor problems, certain rare circumstances dealing with non-attainment areas, for what should be rare circumstances dealing with toxic air pollutants, and as a quick check to ensure emission increases will be below the thresholds. However, Ecology agrees that there should be a closure mechanism and time line and has added those elements to the final rule.

Comment: Subsection 173-400-110(5) mixes the terms emissions unit and project. This is not consistent with the use of the term "project". The rule needs to be consistent and SWAPCA would recommend not using the term project. (Mairose)

Ecology's Response: The terms "emissions unit" and "project" were carefully chosen for this subsection. Emissions unit is used in the first two sentences because a specific emissions unit is eligible for exemption. However, Ecology will be reviewing entire projects when determining the applicability of NSR.

Comment: Subsection 173-400-110(5)(a)(ii) addresses modifications to existing equipment. These modifications are judged by actual emissions. The rule language should clarify if actual emissions are calculated prior to the first recovery device, after the last product recovery device or after control equipment. In addition, approval based on activities is not generally accepted by EPA unless accompanied by an enforceable emission limit. This should be changed to potential to emit. (Mairose)

Ecology's Response: Ecology does not want to specify down to that type of detail in rule. We want to provide our permit writers with the discretion to do what makes sense.

Comment: Emissions from new emission units are determined based on potential to emit whereas modified emission unit emission increases are determined based on actual emissions. We suggest using the same basis for both new and modified emission units for consistency. We recommend using actual emissions to avoid the debate and absurdity associated with potential to emit for emission units without any discernible air quality impact. Using actual emissions as a basis would allow a company to take credit for control systems included with the new or modified emission unit. (Mrazek)

Ecology's Response: The wording of this paragraph was developed very carefully and with a lot of input from the business community and local authorities. We tried to develop a workable means of using actual emissions for new units, but kept running into insurmountable difficulties. For example, how is the authority to know what the actual emissions of a new unit will be? What assumptions are to be used in that determination? Would any restrictions (added controls) be enforceable? If so, what is the difference

between that and just filing the NOCA? Modifications are different because there is a tract record for the unit and there is likely an existing order for the unit.

Ecology received many comments regarding the specific threshold levels. Those comments are listed below. A single response is provided for all of them.

Comment: In order to meet the mandate of the legislature that insignificant or trivial changes be relieved of the need for formal agency review, more realistic exemption thresholds are needed. Unfortunately, the threshold levels proposed by Ecology are not. We do not suggest that the federal criteria contaminant significance thresholds levels are appropriate for defining "insignificant" or trivial" for new source review. We do propose that a factor of 20 is too conservative and provides little environmental benefit to offset a significant cost to the public. Instead, the proposed thresholds effectively assure that many activities or equipment not specifically listed under the categorical exemptions, but still having no environmental consequence, could no longer be waived by Ecology from new source review. We suggest a factor of 5 is ample for criteria contaminants.

We urge Ecology to reconsider this issue and adopt thresholds that provide real regulatory streamlining while still protecting the environment. Lower, more realistic thresholds are justified. The rule clearly requires that Ecology or the permitting agency be given a summary of all projects not categorically exempt from new source review. Armed with this information, they can always inquire further, and if warranted, require a complete application for approval. (Bennett)

Comment: I believe that the emission thresholds in WAC 173-400-110(5) for the criteria pollutants may be too high for areas like Spokane, which have nonattainment issues. I think we (SCAPCA) can deal with this either by writing our own rule or using the authority provided in this section to determine that projects which may impact our nonattainment areas as not having a de minimis impact. However, I would suggest comparing the modeled ambient impacts, presented at the April 23rd meeting on the proposed NSR changes, to allowable impacts in WAC 173-400-113(3) instead of the actual air quality standards as was done at the April 23rd meeting. You are potentially exempting units that, if required to go through new source review, could not be approved. (Vigeland)

Comment: Subsection 173-400-110(5)(c) would exempt sources with emissions of 5.0 tpy of carbon monoxide which is a large amount on a per emissions unit basis. At this level additional controls may be cost effective under a Best Available control Technology review. SWAPCA would recommend reducing the level to 2.0 tpy to be consistent with the level exempted for other pollutants. (Mairose)

Comment: The purpose and intent of the de minimis exemption legislation was to reduce the amount of time and resource spent by business and the regulatory community on the review of installations which have trivial impact on air quality. This re-focus should free up resources to deal with air quality issues of greater importance. Unfortunately, the

thresholds levels set in this proposal would provide essentially no reduction in either agency or source effort and required resources. In fact, the additional notification procedure for all new sources not specifically exempted under Table (c) would certainly add considerably to the effort required of all concerned. We urge Ecology to reconsider this issue and adopt thresholds that provide real regulatory streamlining, while still protecting the environment.

More realistic thresholds are justified by the permitting agency's ability, once notified per part (5)(b), to seek additional information. If warranted, a complete application for approval to proceed could then be required. The currently proposed thresholds are so low that Ecology should not require notification by sources wishing to be exempted. Any source able to show its emissions do not exceed these proposed thresholds (particularly those for air toxics) would be extremely unlikely to impair air quality. (Moore, Mrazek, Riley)

Comment: Our view is that the proposed threshold exemption levels are so low as to cause the statutory objective of the 1996 addition to RCW 70.94.152 to be unrealized. The legislature clearly intended for air regulatory agencies and the regulated community to focus permitting resources on non-trivial projects.

The administrative process proposed in subsection -110(5) could easily allow for the table threshold values to be 5 times higher than the current proposal. This is the case due to the safeguard ability for an air regulatory agency to require the submission of an NOCA if concerns exist with the project not having a de minimis impact on air quality. The requirement to evaluate new emission units on a potential to emit basis adds yet another conservative factor into the scheme.

The design of the threshold exemption is right; the thresholds values are wrong. If the Ecology promise of substantial and significant savings of time and money in the new source review process are to be realized, an adjustment in the threshold values needs to be made. We suggest the table values be increased by a factor of 5.

Ecology and the local air authorities should track and report to the stakeholder community the use of the emission threshold exemption process over the next year. As the General Air Regulation will likely be amended on at least two occasions over the next three years, an opportunity will exist to re-examine the efficacy of the process and to make appropriate adjustments. (Johnson).

Comment: In Subsection 173-400-110(5)(c) it is not apparent where the lead level came from. The following is possible criteria for setting the levels: PSD level .6tpy ($0.6/20=600$ lbs/yr-.03 toy), WAC 173-460 ASIL levels of .5 milligram per cubic (24/hr) and resulting small quality emission rate of 175 pounds per year (.0875 tpy). It appears that for other pollutants the emissions rate exemption were 5% of the PSD Significant Emission Rate. SWAPCA would recommend setting the level at 0.03 tpy. (Mairose)

Ecology's Response: Ecology understands that these thresholds may be conservative for any one project, particularly at a major facility. However, these changes must be taken in their full context. First, Ecology clarified that it looks at net emission increase now as opposed to counting from zero for each change-out of equipment at an existing source. (See Policy of February 1997) Changes that once would have triggered NSR, some amounting to many tons per year, no longer do so. Second, Ecology had two choices to protect against cumulative impacts from many small sources being installed with little or no review. Ecology could require some type of tracking system for exempt sources to ensure that "too many" are not being installed at one facility. However, that option seems to present unnecessary administrative requirements. As such, Ecology chooses to use smaller thresholds, but to generally allow unlimited number of those sources. Finally, these thresholds have proven useful to Ecology's regions both in terms of exempting sources from registration requirements and as a rule of thumb for determining what sources they would like to exempt from NSR, if given the option.

For the purpose of defining de minimis thresholds, Ecology is proposing to use emissions thresholds for criteria pollutants that are equal to five percent of the Prevention of Significant Deterioration (PSD) significance levels defined in 40 CFR 52.21 (b) (23). The specific thresholds are shown in Table 1. The selection of the five- percent of PSD figure was based on the considerations described below.

Table 1

POLLUTANT	TONS PER YEAR	COMMENTS
Total suspend particulate (TSP)	1.25	
Carbon monoxide	5.0	
Nitrogen oxides	2.0	
Sulfur oxides	2.0	
VOCs	2.0	As defined in WAC 173-400-030(59)
PM ₁₀	0.75	As defined in WAC 173-400-030(59)
Lead	.03	

- Modeling Results. Ecology took the thresholds used to define insignificant emission units in Chapter 173-401 WAC and ran those numbers through EPA's SCREEN 3¹² model. The modeling parameters used in this exercise are:
 - The emissions are coming from a point source.

¹² SCREEN 3 is a basic screening model for air emissions. It does not rely on sophisticated meteorological data. Rather, it produces generalized, typically conservative results.

- The emission rate was assumed to be spread evenly throughout the year. For example, the emission rate for CO was assumed to be .143800 grams per second which is five tons per year multiplied by 2.88×10^{-2} to convert to grams per second assuming the source operates 365 days per year, twenty four hours per day.
- Stack height is eight meters.
- Stack diameter is one meter.
- Stack exit velocity is one meter per second.
- Stack gas exit temperature is 313 kelvin (104° F).
- Ambient temperature is 293 kelvin (68° F).
- Receptor height is 1.7 meters.
- The “rural” option¹³ was used in the urban/rural field.
- The modeled building height was six meters
- The modeled minimum building horizontal distance was 30 meters.
- The modeled maximum building horizontal distance was 43 meters.

Table 2 compares these modeling results with the federal ambient air quality standards (NAAQS) for these pollutants.

Table 2 Comparison of Modeled Results with AAQS

Pollutant	AAQS ¹⁴			Max. Concentrations (ug/m ³)	Percent of AAQS
PM ₁₀ ¹⁵	Annual 50 ug/m ³			9.6	19%
	24 hour 150 ug/m ³			38.43	26%
SO ₂	Annual	ppm	ug/m ³	25.69	48%
	24 hour	.02	53.10	102.76	39%
	1 hour	.10	265.89	256.90	24%
CO		ppm	ug/m ³		
	8 hour	9	10,469.46	499.82	.043%
	1 hour	35	40,714.58	642.60	.01%
NO ₂	Annual	ppm	ug/m ³	25.69	27%
Ozone		ppm	ug/m ³	N/A	N/A
	1 hour	.12	239.30		
lead	Quarterly 1.5 ug/m ³			.064	4.3%

¹³ The rural option in SCREEN 3 tends to produce more conservative numbers than would the urban option.

¹⁴ Many AAQS are expressed in parts per million (ppm). For the purposes of this comparison, those have been converted to ug/m³.

¹⁵ At this point it is not possible to address the new EPA standard for PM_{2.5}.

- Comparisons with other states. Ecology's proposed thresholds fall in the middle of the range of thresholds for criteria pollutants used by other states and localities.

Table 3 Sample of other States De Minimis Levels

State	Criteria Pollutant	Threshold	Comment
CO	Attainment areas	2 TPY	Based on uncontrolled actual emissions
	Nonatt. areas	1 TPY	
	Lead	100 PPY	
IL		4 TPY	Except lead?
TX	CO	250 TPY	Caveat that if it is a new source under federal law it is a new source in TX
	SO ₂	25 TPY	
	No _x	250 TPY	
	VOCs	25 TPY	
	Any other	25 TPY	
TN	All criteria pollutants	2.2 TPY	
OK	All criteria pollutants	.57 PPH	Thresholds are listed in terms of PTE
WI	NO _x	2.28 PPH	HAPs 1,000 pounds per year
	SO ₂	2.28 PPH	
	VOCs	2.28 PPH	
	CO	5.70 PPH	
	Lead	.025 PPH	
MI	VOCs	6 TPY	Carcinogens .1 PPH Non-carcinogens 1 PPH
			Calculated uncontrolled--Other criteria pollutants thresholds not apparent

- Managing Uncertainty. Ecology recognizes that there will always be some degree of uncertainty as to the emission levels and health risks posed by de minimis exemptions. Therefore, Ecology attempted to balance being appropriately conservative in setting the thresholds levels without being so conservative as to make the idea of de minimis exemptions meaningless.
- Cumulative Effects. Ecology recognizes that emissions from many small sources can add up to concentrations that pose risks to human health and the environment. The Legislature also recognized this fact in 70.94.011.¹⁶ There

¹⁶ The second to the last paragraph of 70.94.011 reads: "[t]he legislature further recognizes that air emissions from thousands of small individual sources are major

are two ways to deal with cumulative effects. First, Ecology could track the installation of every small unit that a source installs, and then cut them off at some aggregate emission level. This approach would place substantial administrative burdens on both the permit authority as well as industry. Another approach, the one used by Ecology in this case, is to be appropriately conservative in adding equipment to the de minimis list, and establishing de minimis emissions threshold values to make it highly unlikely that any one source would install enough small units to have a significant impact on human health and the environment.

Ecology recognizes that some local authorities may choose to remove equipment from the de minimis list, and/or use lower emission thresholds due to local conditions. Such conditions could include non-attainment status for certain pollutants or protecting areas that are routinely subject to winter inversions from CO sources.

Comment: Subsection 173-400-110(5)(c) appears that Particulate matter (PM) was inadvertently excluded from the list. The Significant Emissions Rate (PSD) for PM, Total Suspended Particulate (TSP) is 25 tons per year. . . .SWAPCA would recommend adding the PM (TSP) [at 5% of PSD] level to the table. (Mairose)

Comment: We recommend adding a threshold for TSP. . . (Mrazek)

Ecology's Response: Ecology agrees and added the suggested exemption level.

Comment: Subsection 173-400-110(5)(c) proposes to add an exemption level for ozone depleting substances. As a category, air authorities have no authority to regulate these compounds. The ozone depleting substances are presently regulated as a toxic air pollutant or VOC. SWAPCA would recommend dropping this exclusion. (Mairose)

Ecology's Response: The inclusion of these compounds came at the request of another local authority. Ecology does not see the harm in retaining these thresholds.

Comment: In WAC 173-400-110(5)(h), the threshold levels for TAPs are set "as specified in Chapter 173-460 WAC". It would be useful to be more specific. For instance, WAC 173-460-040(2) provides an exemption for small projects that are below the small quantity emission rate. . . Is this the section you mean? Or do you mean any project below the small quantity emission rates specified in the WAC 173-460-080(2)(e). . . I think citing WAC 173-460-040(2) is the best choice as it promotes consistency between two regulations. (Vigeland, Johnson, Mrazek)

contributors to air pollution in many regions of the state. As the population of a region grows, small sources may contribute an increasing proportion of that region's total air emissions. It is declared to be the policy of the state to achieve significant reductions in emissions from those small sources whose aggregate emissions constitute a significant contribution to air pollution in a particular region."

Comment: Section (5)(c), Exemptions based on Emission Thresholds, item h) toxic air pollutants, it is assumed that the threshold levels for exemption would be the SQER specified for new sources under WAC 173-460. The ASIL would be applied to modifications of existing sources, as well as new sources above the SQER and would be the controlling factor for BACT. (Bates)

Ecology's Response: Until Chapter 173-460 WAC is re-written, the toxics thresholds will be the SQERs, they will apply to new and existing equipment and will determine when BACT is necessary.

Ecology choose the wording for this section specifically to avoid have to re-open it after changes are made to Chapter 173-460 WAC. Ecology's intends on identifying specific exemption levels in Chapter 173-460 WAC. To call the SQER Table in 460 in this rule change would then require another rule change in the future to correct the citation. Such corrections are time consuming and expensive for Ecology to perform.

WAC 173-400-110(11) Change of conditions

Comment: It is important to clarify that changes to an Order of Approval do not reset the level of control technology required for the installation. Sources must be assured that approved emission control performance will continue to constitute BACT, even though more recent control technologies may have become available subsequent to the original installation. To clarify this point, we suggest the addition of the phrase "as defined at the time of the original approval" to Section (11)(iv). (Moore, Johnson, Riley)

Comment: We concur and support the proposal of the Association of Washington Business to add the phrase "as defined at the time of the original approval" to Section (11)(iv). (Bennett)

Ecology's Response: Ecology agrees and will add the phrase in the final rule.

Comment: This section is the single most welcome aspect of the proposed rule revisions and reflects the fact that language adjustments to existing regulatory orders have been, are and will continue to be necessary. This is especially apparent now that Title V permitting is underway. However, a few clarifications are suggested. First, the form of the request is not defined. Is this a NOC or a letter? Are fees required? Is SEPA involved? Second, there is no time line nor obligation for Ecology to respond. We suggest using the same time line as for a NOC. Third, in paragraph (a)(iv) it is stated that "the revised order will continue to require BACT." We suggest clarifying that BACT as established in the original order of approval shall be continued. Otherwise the potential interpretation exists of having an updated more stringent level of BACT applied as a request for language clarification to a ten year old order. (Mrazek)

Ecology's Response: As noted above, Ecology will clarify that BACT is the level as determined in the original order. Ecology will also apply the time line used by the NOC process. However, Ecology will not prescribe the exact method for these types of requests. Ecology has several air permitting offices and many local authorities use our rules. We do not want to tie the hands of those offices or authorities in how they will handle such requests.

Comment: Please clarify in the responsiveness summary and/or this paragraph Ecology's expectations to comply with the administrative process under this paragraph for situations to (1) supersede within a regulatory order and (2) supersede the entire regulatory order. In addition, please provide clarification on enforcement to the general provisions vs. specific conditions section in the regulatory order format. (Bates)

Ecology's Response: Ecology is not entirely sure what is being requested. This paragraph is designed to provide a clear means of changing existing administrative orders that were written as part of the NSR process that for some reason do not work.

Miscellaneous

Comment: Temporary Installations. On occasion, emergency situations require immediate installation or modification of equipment, which would otherwise undergo normal new source review. In many cases these installations are temporary until more permanent fixes can be accomplished. It has been the policy of Ecology and most of the permitting agencies to allow temporary installations without the normal new source review process. We suggest the addition of a categorical exemption for temporary installation at existing sources lasting for no more than 30 days, providing BACT is employed. This would allow sufficient time to obtain an expedited approval if the equipment is needed for a longer period. Because this exemption should not be made without the opportunity for agency review, we suggest that this be placed in a separate section instead of appearing in Table (c) of Section (5). (Moore, Johnson)

Comment: WSPA member companies urge that language be included to provide exemption for use of emergency response equipment (e.g. portable power generators) and for emergency response training (e.g. fire, spill or accidental release). That there be no impediments associated with response (or the capability to respond) is consistent with the intent of all environmental legislation and rule making: minimizing impact as well as providing for the health and safety of Washington citizens. (Riley)

Ecology's Response: This response is for the above two comments. Ecology agrees with the basic premise of quickly allowing the installation of emergency equipment. However, Ecology was not able to add such a broad exemption this late in the rulemaking process. Ecology is not aware of a problem with the way emergency response training is done now. This rule amendment does not change how such training is dealt with.

VI. Appendix I: Public Comment Documents

New Source Review Hearing

Let the record show it is 2:45 on August 27th 1997 and this hearing is being held at the Ecology's Northwest regional office in Bellevue Washington. Legal notices were published in the Washington State Register on August 6th 1997. In addition, notices of the hearings were mailed to about 100 interested people.

No one has elected to make oral testimony.

If you'd like to send Ecology written comments, they're due in by September 5th 1997. Send them to Mr. Tony Warfield at the Washington State Department of Ecology, P.O Box 47600, Olympia WA 98405-7600. All testimony along with all written comments received by September 5th 1979 will be part of the official hearing record for this proposal.

The agency director Mr. Tom Fitsimmons or his designee look at the public comment the responsiveness summary and staff recommendations and make a decision about adopting the proposal.

Mr. Tony Warfield will announce that date at end of October .
This hearing is adjourned at 3:00p.m.

New Source Review Hearing

Let the record show it is 6:55 on August 28 1997 and this hearing is being held at the Ecology's Northwest regional office in Bellevue Washington.

Legal notices were published in the Washington State Register on August 6th 1997. In addition, notices of the hearings were mailed to about 100 interested people.

No one has elected to make oral testimony.

If you'd like to send Ecology written comments, they're due in by September 5th 1997. Send them to Mr. Tony Warfield at the Washington State Department of Ecology, P.O. Box 47600, Olympia WA 98405-7600.

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AFFIDAVIT OF PUBLICATION

STATE OF WASHINGTON)

SS:

County of Clark)

HEARING NOTICE
WAC 173-400-110
WAC 173-400-110, Washington's principal rule for reviewing new sources of air pollution, is being revised. These revisions reflect changes to Chapter 70.04 RCW, the Washington State Clean Air Act, and the Department of Ecology's own regulatory reform efforts.

Background
In the Winter of 1995 Ecology, in conjunction with an advisory committee comprised of local air authorities and environmental and industrial community representatives, began a comprehensive evaluation of its New Source Review program. That effort, known as the New Source Review Reform Project, had six major objectives:

- Maintain a cost-effective New Source Review process that protects human health and the environment;
- Simplify the New Source Review Regulations;
- Eliminate duplication/inconsistencies with other rules;
- Ensure that the control of air emissions is proportional to the effort needed to permit the new source;
- Increase incentives for sources to reduce emissions in proportion to the effort needed to permit the new sources;
- Increase incentives for sources to reduce emissions, and
- Ensure that current scientific information is used in regulating air emissions.

Hearing Schedule
Public hearings on the proposed New Source Review Revisions are scheduled as follows:

Vancouver Fire Station 88
6701 NE 147
Vancouver, August 26, 1997
at 6:00 p.m.

Bellevue
Department of Ecology
Northwest Regional office
3190 160th Avenue SE
Bellevue, August 27, 1997
Time 2:00 p.m. Room 1-C

Spokane
Spokane Library
W. 906 Main
Spokane, August 28, 1997
at 6:00 p.m.

The public comment ends on September 5, 1997. If you would like to review the proposed changes or make comments please contact:

Tony Warfield
The Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
Telephone 360-407-6892
Fax 360-407-6802
e-mail address:
awar461@ecy.wa.gov
If you have special accommodation needs or require this document in alternative format, please call Pat Norman at Ecology's Air Program at (360)407-6841 or (360)407-8006(TDD).
Aug 15

Joanne Cox, being first duly sworn on oath, deposes and says: That she is the Principal Clerk of THE COLUMBIAN, a legal newspaper published in Clark County, Washington and approved by the Superior Court of Clark County, Washington. That the annexed is a true copy of a

HEARING NOTICE

as it was published on:

the 15th day of August, 1997

That the fee charge for the publication is the sum of \$89.88.

Joanne Cox

Subscribed and sworn to before me August 15, 1997.

Nelda Glaze

NOTARY PUBLIC in and for the State of Washington, residing in Vancouver.

NELDA GLAZE
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
AUGUST 20, 2000

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Maintain a cost-effective New Source Review process that protects human health and the environment;

Simplify the New Source Review Regulations;

Eliminate duplication/inconsistencies with other rules;

Ensure that the control of air emissions is proportional to the effort needed to permit the new source;

Increase incentives for sources to reduce emissions in proportion to the effort needed to permit the new sources;

Increase incentives for sources to reduce emissions, and

Ensure that current scientific information is used in regulating air emissions.

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Public Hearings on the proposed New Source Review Revisions are scheduled as follows:

Vancouver
Vancouver Fire Station 88
6701 NE 147
Vancouver
August 26th at 6:00 p.m.

Bellevue
Department of Ecology Northwest
Regional Office
3190 160th Avenue SE
Bellevue
August 27th at 2:00 p.m. Room 1-C

Spokane
Spokane Library
W. 906 Main
Spokane
August 28th at 6:00 p.m.

The public comment ends on September 5, 1997. If you would like to review the proposed changes or make comments please contact:

Tony Warfield
The Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Telephone: 360-407-6892
Fax: 360-407-6802
e-mail address:
awar461@ecy.wa.gov

If you have special accommodation needs or require this document in alternative format, please call Pat Norman at Ecology's Air Program at (360) 407-6841 or (360) 407-6006 (TDD). SP2048 033076

I, Diane L. Thom

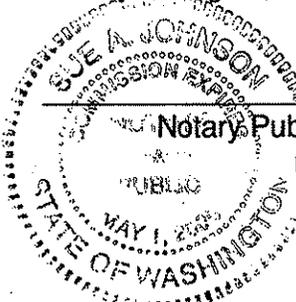
do solemnly swear that I am the Principal Clerk of the **SPOKESMAN-REVIEW**, a newspaper established and regularly published, once each day in the English language, in and of general circulation in the City of Spokane, Spokane County, Washington; and in the City of Coeur d'Alene, Kootenai County, Idaho; that said newspaper has been so established and regularly published and has had said general circulation continuously for more than six (6) months prior to the 23rd day of July, 1941; that said newspaper is printed in an office maintained at its place of publication in the City of Spokane, Washington; that said newspaper was approved and designated as a legal newspaper by order of the Superior Court of the State of Washington for Spokane County on the 23rd day of July, 1941, and that said order has not been revoked and is in full force and effect; that the notice attached hereto and which is a part of the proof of publication, was published in said newspaper, one time(s), the publication having been made once each time on the following dates:

August 14, 1997

That said notice was published in the regular and entire issue of every number of the paper during the period of time of publication, and that the notice was published in the newspaper proper and not in a supplement.

Diane L. Thom

Subscribed and sworn to before me at the City of Spokane, this 19 day of August, 1997



Sue Johnson

Notary Public in and for the State of Washington,
residing at Spokane, Wash.

VII. Appendix II: Original Public Comments



Corporate Headquarters
Tacoma WA 98477-0001
Tel (206) 924 2345

'97 SEP -8 A10 :45

September 5, 1997

Tony Warfield
Air Quality Program
Washington Department of Ecology
P. O. Box 47600
Olympia, WA 98504-7600

Dear Mr. Warfield:

Subject: De Minimus New Source Review Revisions

We appreciate the opportunity to offer comments on the revisions proposed to WAC 173-400 which were recently published in the Washington State Register. Our compliments are extended to you and the agency for providing numerous opportunities for interested stakeholders to participate in forming this proposal.

Weyerhaeuser Company owns and operates 29 manufacturing or support facilities in the state located in 6 different agency jurisdictions. This set of facilities is typically involved in 15-20 new source permitting activities each year. We have an obvious interest in any regulation amendment package which purports to "streamline the new source review permitting process" and to save industry a "substantial amount of time and money by not having to permit small emissions units."

Our view, unfortunately, is that this rule package falls short of these promises. The following comments support this conclusion.

WAC 173-400-110(1) Applicability

The inclusion of the last sentence of this section has lead to confusion and misunderstanding on how it affects local air authority NSR programs which might differ slightly from WAC 173-400-110. The Association of Washington Business comments detail the different perspectives. Ecology offers no explanation of the intent in the state register preamble discussion.

Given the uncertain effect of this language we recommend the agency delete the new sentence. This would affirm the existing relationship between local air authorities, and Ecology and WAC 173-400.

WAC 173-400-110(2) Projects Subject to NSR

The addition and use of the term "Begin actual construction" in WAC 173-400-030(9) to define when a new source is "established" might constitute an unwelcome change. If the effect of this proposal is to require the receipt of a final Order of Approval prior to beginning any physical on-site construction activities, it would represent a change from the historic practice and guidance of Ecology and several local air authorities.

The current understanding is that a permittee can proceed with below-ground preparatory project work following the issuance of a preliminary determination on a Notice of Construction. The understanding has always been very clear that work proceeds at the permittee's risk; i.e., comments received and final agency decisions could force a change in the scope of the project and render the accomplished work unuseable. Above-ground project construction could only begin with the receipt of a final approval order.

Our wish is that the phrase "...an order of approval issued by ecology or an authority..." will continue to be interpreted to include the issuance of a preliminary determination on an NOC. Such an understanding can "save" the permittee 35-45 days on a project schedule (i.e., the public comment period plus the agency processing time to issue the final order) which may be important for capturing some market opportunity. The public and agency interests are protected with this interpretation in that the public comment and agency decision process is unaffected, and any risks arising from changes fall entirely on the permittee.

WAC 173-400-110(5)(b) Exemptions based on emissions thresholds

The following language should be inserted as the third sentence in subsection (b):

A determination by Ecology or the authority that a notice of construction application must be filed shall be issued within 15 days of receipt of the project summary.

This addition is necessary to provide some confident closure to the project notice process. The short 15 day allowance is consistent with the view that this set of small emission projects should benefit from an expedited review process.

WAC 173-400-110(5)(c) Exemption threshold table

Our view is that the proposed threshold exemption levels are so low as to cause the statutory objective of the 1996 addition to RCW 70.94.152 to be unrealized. The legislature clearly intended for air regulatory agencies and the regulated community to focus permitting resources on non-trivial projects.

The administrative process proposed in subsection -110(5) could easily allow for the table threshold values to be 5 times higher than the current proposal. This is the case due to the safeguard ability for an air regulatory agency to require the submission of an NOC if concerns exist with the project not having a de minimus impact on air quality. The requirement to evaluate new emission units on a potential-to-emit basis adds yet another conservative factor into the scheme.

The design of the threshold exemption is right; the threshold values are wrong. If the Ecology promise of substantial and significant savings of time and money in the new source review process are to be realized, an adjustment in the threshold values needs to be made. We suggest the table values be increased by a factor of 5.

Ecology and the local air authorities should track and report to the stakeholder community the use of the emission threshold exemption process over the next year. As the General Air Regulation will likely be amended on as least two occasions over the next three years, an opportunity will exist to re-examine the efficacy of the process and to make appropriate adjustments.

WAC 173-400-110(5)(c) Exemption threshold table

The threshold level offered for toxic air pollutants of "As specified in chapter 173-460 WAC" does not convey enough information. The best assumption is that this is a reference to the small quantity emission rates established in WAC 173-460-080(2)(e). If so, we would suggest this specific regulatory reference be substituted.

WAC 173-400-110(11)(a) Change of conditions

Subsection (a)(iv) could be read to require a new BACT determination should the source owner request an approval order change. The definition and use of the term "new source" provides the only trigger for requiring a BACT determination. A self-initiated request to change an order in a manner which satisfies subsections (a)(i) through (a)(iii) would not cause the source to become a "new source."

To clarify this matter, we suggest the addition of the phrase "as defined at the time of the original approval" to subsection (a)(iv).

WAC 173-400-110(12) Temporary Installations

The AWB comments have presented the case for a new section to address temporary installations. We support this comment.

* * *

Mr. Tony Warfield

Page 4

We appreciate that the Department of Ecology has invested significant resources in the rule development effort and we commend you for the stakeholder involvement process. The results of the process, however, are entirely too timid. We would encourage you to seriously consider comments from the business community to adjust the rule and thereby accomplish both legislative intent and the objectives advertised by Ecology in the preamble presentation. If we can provide any additional information or explanation, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ken Johnson".

Ken Johnson

Washington Environmental Affairs Manager

Warfield, Anthony G.

From: John.A.Bates.at.~HANFORD21B@ccmail.pnl.gov
Sent: Monday, September 08, 1997 3:07 PM
To: awar461@ecy.wa.gov
Cc: Marsha.A.Beery.at.~EXCHANGE@ccmail.pnl.gov
Subject: Comments Regarding NSR Revised WAC 173-400

Tony,

Please accept the following comments, and those attached, as input to the NSR proposed rule review. Please call with any questions.

John
509-376-2088

(1) Definitions: it would increase the clarity of the regulation if words or phrases defined in WAC 173-400-030, Definitions, were italicized in the text where the definition is intended; this would alert the reader that a special definition exists and that meaning, as opposed to the common or dictionary meaning, is intended for usage at that point in the text.

(2) Notification and Project Summaries: WAC 173-400-110(5)(b) needs to include text indicating that the owner or operator may proceed if Ecology does not request a project summary within 30 days of filing a notification, or does not request an NOC within 30 days of filing a project summary.

(3) In the context and meaning of a new source subject to a NESHAP, unless otherwise listed as an exemption, it is assumed the NESHAP source is required to file a brief project summary under new source review in addition to the NESHAP requirements.

(4) Section WAC 173-400-110 (2), Projects Subject to NSR, second paragraph, the reference to WAC 173-400-030(43) should read WAC 173-400-030(44) to correctly correspond to the new numbering of definitions.

(5) Section (5)(c), Exemptions based on Emission Thresholds, item (h) toxic air pollutants, it is assumed that the threshold levels for exemption would be the SQER specified for new sources under WAC 173-460. The ASIL would be applied to modifications of existing sources, as well as new sources above the SQER, and would be the controlling factor for BACT.

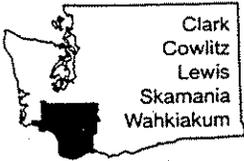
(6) Comment to 173-400 Section 110 (5) b.:
The establishing of de minimus levels for Notices of Construction is a welcome addition to the regulations. However, the proposed requirements may cause some awkward moments in managing construction projects. If a party notifies Ecology of the intent to construct an exempt source and then begins

construction, construction could be halted at any time if Ecology feels a Notice of Construction is needed. This liability could cause considerable economic impact in some cases. It is recommended that language be provided that defines the time required for notice to Ecology, e.g., a minimum of 30 days prior to construction. Then, language should also be provided that Ecology must advise as to whether a NOC is required no later than the start of construction date. In effect, there needs to be some limitation on the time frame when a project is liable for providing a NOC for exempt sources. Language similar to that in paragraph (6) for NOC submittal should also be adopted for notifications of an exempt source.

(7) Activities such as concrete scabbling and carbon dioxide pellet (non-abrasive) surface cleaning should be added as exempted activities. These activities are routinely utilized to clean surfaces, and result in negligible airborne emissions.



nsr9-97.kap



Southwest Air Pollution Control Authority

1308 NE 134th Street • Vancouver, WA 98685-2747

(360) 574-3058 • Fax: (360) 576-0925

TDD Accessible

'97 SEP -8 A10:46

September 3, 1997

Mr. Tony Warfield
Department of Ecology
Air Quality Program
PO Box 47600
Olympia, WA 98503-7600

Subject: Comments on Proposed Revisions to WAC 173-400-110

Dear Mr. Warfield:

The Southwest Air Pollution Control Authority (SWAPCA) has reviewed the proposed rule changes to WAC 173-400-110 New Source Review (NSR). In general, SWAPCA agrees that there is a need for establishing levels or activities that should be exempted from new source review.

Generally our comments relate to two categories but are not delineated categorically. Those categories are: 1) those processes that may be subject to federal requirements, and 2) miscellaneous comments. Text of the comments are provided as an attachment to this letter. Please incorporate these changes into the final version. If you need additional clarification on any of the comments, please do not hesitate to call me at (360) 574-3058 extension 30.

Thank you for the opportunity to submit these comments.

Sincerely,

Paul T. Mairose
Chief Engineer

Attachments

cc: Dan Johnson, Ecology
Dale Jensen, Ecology
Paige Boule, Ecology
Tom Todd, Ecology



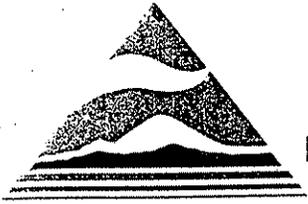
SWAPCA Comments on July 25, 1997 Proposed WAC 173-400-110 Revisions

1. Subsection 173-400-110(2) introduces the term "project" which is not defined. The paragraph talks to sources and emission units - why introduce a new term that has no precedence. The program needs to be consistent and would recommend not using the term project. The term project can be defined as wide as contemporaneous increase and decreases in the last 10 years to as narrow as each emission unit. Such a vague definition makes enforcement and permitting difficult for both authorities and sources.
2. The deletion of the terms "emission unit" and "modification" in the first paragraph of Subsection 173-400-110(2) one could assume incorrectly that a modification is not required to be reviewed.
3. Subsection 173-400-110(4) introduces new source review. It is unclear if you are exempt from submitting a Notice of Construction. Current rules are confusing on when to submit a NOC vs. NSR. Submission of an NOC does not necessary trigger NSR. That is why SWAPCA advocates changing the title of this section or adding a section to address when to submit an NOC.
4. Subsection 173-400-110(4)(b)(vii) has an applicable federal requirement (40 CFR 68 "Chemical Accident Prevention Provisions"). SWAPCA would recommend dropping the exclusion or lowering the exemption to less than 10,000 pounds of fuel, site wide capacity, in order to be consistent with 40 CFR 68.
5. Subsection 173-400-110(4)(c) has various heat input limitations that may be based on other regulations. To assist the public you could add reference to the WAC regulations that limit the fuel input.
6. Subsection 173-400-110(4)(c) excludes all combustion devices which includes flares and control devices. Control devices and flares treating up to 70 tons per year of VOC (benzene) without any monitoring requirements would be exempted. Combustion devices should therefore be limited only to devices primarily used to heat a process fluid or heat treat metal.
7. Subsection 173-400-110(4)(d)(iv) would not limit emissions. The maximum concentration of VOC in the tank exhaust could be as high as 6,500 ppm. Large tanks with over 3.5 million gallons capacity could result in VOC emissions over 7.5 tons per year. SWAPCA recommends a tank capacity limit of 1.0 million gallons which results in a VOC exemption level of approximately 2 tons per year.
8. Subsection 173-400-110(4)(f)(iii) could cause confusion for large physical laboratories that have significant toxic emissions limit like Columbia Analytical Services in Longview. SWAPCA would recommend excluding quality control laboratories but not commercial physical laboratories.

9. Subsection 173-400-110(4)(h)(iv) has an applicable federal requirement (40 CFR 82.150 "Recycling Emissions Reduction") for the category. SWAPCA would recommend dropping this exemption.
10. Subsection 173-400-110(4)(h)(xxxi) has an applicable federal requirement (40 CFR 60.280 "Standards of Performance for Kraft Pulp Mills" - Brown stock washer system). SWAPCA would recommend dropping this exemption.
11. Subsection 173-400-110(4)(h)(xxxiii) has an applicable federal requirement (40 CFR 63.460 "National Emission Standards for Halogenated Solvent Cleaning"). SWAPCA would recommend adding the clarification that this exclusion is for non-halogenated solvent cleaning.
12. Subsection 173-400-110(5) mixes the terms emissions unit and project. This is not consistent with the use of the term "project". The rule needs to be consistent and SWAPCA would recommend not using the term project.
13. Subsection 173-400-110(5)(a)(ii) addresses modifications to existing equipment. These modification are judged by actual emissions. The rule language should clarify if actual emissions are calculated prior to the first recovery device, after the last product recovery device or after control equipment. In addition, approval based on activities is not generally accepted by EPA unless accompanied by an enforceable emissions limit. This should be changed to potential to emit.
14. Subsection 173-400-110(5)(c) would exempt sources with emissions of 5.0 tpy of carbon monoxide which is a large amount on a per emissions unit basis. At this level additional controls may be cost effective under a Best Available Control Technology review. SWAPCA would recommend reducing the level to 2.0 tpy to be consistent with the level exempted for other pollutants.
15. Subsection 173-400-110(5)(c) appears that Particulate Matter (PM) was inadvertently excluded from the list. The Significant Emissions Rate (PSD) for PM, Total Suspended Particulate (TSP) is 25 tons per year. It appears that emissions rate exemption for the other pollutants were based on 5% of the PSD Significant Emissions Rate. The exemption level is calculated to be 1.25 tpy ($25 * 0.05$) based on 5% of the PSD level. SWAPCA would recommend adding the PM (TSP) level to the table.
16. In Subsection 173-400-110(5)(c) it is not apparent where the lead level came from. The following is possible criteria for setting the levels: PSD level 0.6 tpy ($0.6/20 = 600$ lbs/yr - 0.03 tpy), WAC 173-460 ASIL levels of $0.5 \mu/m^3$ (24hr), $0.04 \mu/m^3$ (24hr) and resulting small quantity emission rate exemption of 175 pounds per year (0.0875tpy). It appears that emissions rate exemption for the other pollutants were based on 5% of the PSD Significant Emissions Rate. SWAPCA would recommend setting the level at 0.03 tpy.
17. Subsection 173-400-110(5)(c) proposes to add an exemption level for ozone depleting substances. As a category, air authorities have no authority to regulate these compounds.

The ozone depleting substances are presently regulated as a toxic air pollutant or VOC. SWAPCA would recommend dropping this exclusion.

18. Subsection 173-400-110(4)(b)(iv) exempts process storage tanks which could include large solvent storage tanks. The term process storage tanks is used in many industries that would include any tank at a petroleum refinery or chemical plant. These tanks could be subject to many federal requirements. The white water storage tanks in a paper mill could be subject to the wastewater provisions of the new applicable federal requirement (40 CFR 63). SWAPCA would recommend dropping this exclusion.
19. SWAPCA believes that some form of documentation or notification is required to minimize misunderstandings regarding these exemptions. At a minimum, the source should maintain records on site of all determinations that equipment (emission unit) was not required to go through new source review. This document could then be used by the Title V sources to document basis for their insignificant emission units. As an alternative, when requested, DOE or the local could be required to confirm within 90 days that an exemption applies. Another option would be to require all determinations to be reviewed by DOE or the local within 60 days of receipt. SWAPCA requires all sources using the WAC 173-460-040-(2) exclusion from new source review to submit a letter indicating why the unit is not subject to new source review. SWAPCA then notifies the source in writing. SWAPCA believes that without the above measures in place, unnecessary enforcement action would take place. SWAPCA believes that notification will reduce liability for both the source and the authority.
20. These exclusions included in this exempt section could allow a large source to modify equipment over a short period of time (1-3 years) and exceed PSD incremental levels. These exceedences would occur without the knowledge of the Authority because there is no mechanism to track cumulative emission increases. A tracking method and notification requirement is a must to eliminate possible PSD violations.



PUGET SOUND AIR POLLUTION CONTROL AGENCY
KING COUNTY ▲ KITSAP COUNTY ▲ PIERCE COUNTY ▲ SNOHOMISH COUNTY

September 5, 1997

Tony Warfield
WA State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Dear Mr. Warfield:

WAC 173-400, New Source Review

PSAPCA supports most of the changes that Ecology has proposed to make in WAC 173-400 regarding New Source Review. We will be looking at them as a model when we review and consider revisions to our New Source Review program.

PSAPCA has two major concerns about the proposed change. First, we are very concerned about the last sentence under applicability ("*This exemption is subject to the provisions of WAC 173-400-020.*") and recommend that this sentence be removed from the proposed regulation. We are also concerned about having the list of de minimis sources apply statewide.

We strongly support the requirement that the New Source Review program should apply statewide, except where an authority has a SIP approved program. We object to the requirement that all of our new source review requirements must be as stringent or more stringent than those in Chapter 173-400 WAC. We are also concerned about how to implement the proposed wording. For example, if PSAPCA determines that it needs a shorter review period does that constitute a less stringent requirement? The only requirement should be that authorities adopt the NSR program by rule and it must be SIP approved.

We encourage Ecology to review local new source review programs before submitting them to EPA for review and inclusion in the SIP. However, Ecology should limit the review to its statutory requirements under RCW 70.94.331. The Washington Clean Air Act only directs Ecology to adopt emission standards that shall constitute minimum emissions standards through the state. It says nothing about Ecology adopting other requirements that apply statewide. When Ecology reviews an authority's new source review program, we encourage Ecology to review the program as a whole. We also support Ecology's authority under RCW 70.94.405 to determine whether or not the local air pollution control programs, including new source review, are being carried out in good faith and are as effective as possible.

As proposed, the establishment of de minimis new sources by Ecology severely limits the ability of local authorities to address region-specific air pollution problems through new source review. RCW 70.94.152(1) specifically says that an authority may require notice of the establishment of any proposed new sources except single family and duplex dwellings. The statute then also excludes de minimis new sources as defined in rules adopted under RCW 70.94.152(11). That

Dennis J. McLerran, Air Pollution Control Officer

B O A R D O F D I R E C T O R S

Charlotte Garrido, Commissioner, Kitsap County
Janet Chalupnik, Member at Large
Edward D. Hansen, Mayor, Everett

Lynn S. Horton, Mayor, Bremerton
R.C. "Swede" Johnson, Snohomish County Council
Ron Sims, King County Executive

Brian Ebersole, Mayor, Tacoma
Norman B. Rice, Mayor, Seattle
Doug Sutherland, Pierce County Executive

Tony Warfield
September 5, 1997
Page 2

section says new source review shall not be required for sources that the department or board has determined to have de minimis impact on air quality. This leaves the authorities in an unacceptable position. If Ecology determines that a source or a level of emissions is de minimis, all authorities must also exclude that source or level of emissions. For example, because of odor and overspray issues, PSAPCA's current rule requires all spray coaters to go through new source review. Given the proposed wording, we would be prohibited from requiring some surface coaters from going through new source review. Our concern is that to efficiently manage our air quality we found it necessary to review each new spray coating operation under new source review. In an area that does not have as many spray coaters as we do, there may be other more efficient ways to regulate them.

PSAPCA also feels that emission thresholds are not a practically enforceable tool for categorically exempting from new source review. We do use emission levels as one of several screening tools for determining on a case-by-case basis or by rule if a source or activity should be exempt from new source review. We feel that under the current wording we could be prohibited from requiring many sources from going through our current SIP approved new source review program.

In short given the current wording, we can adopt a list of de minimis new sources, but the list must be no more stringent or less stringent than the department's.

We support Ecology's effort to establish a list of de minimis new sources, as PSAPCA has in PSAPCA Regulation I Section 6.03(b). However, Ecology should add language that says that the de minimis list only applies where Ecology's new source review program applies.

This issue points out the need for Ecology to clearly separate the sections of Chapter 173-400 that apply statewide from the sections that apply only in areas that are directly regulated by Ecology. For example, emission standards apply statewide and the registration requirements only apply where Ecology is the responsible authority. Finally, we recommend that Ecology consider revising WAC 173-400-020 to be consistent with the Washington Clean Air Act.

Please contact Jay Willenberg at (206) 689-4052 if you have any questions. We appreciate the opportunity to comment.

Sincerely,



David S. Kircher
Manager - Engineering

DSK:mj

cc: Dan Johnson

September 5, 1997

'97 SEP 10 A10 :01

Mr. Tony Warfield
Air Quality Program
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Comments to proposed changes in WAC 173-400-110

Dear Mr. Warfield:

Thank you for the opportunity to comment on revisions proposed to the Washington new source review rules, WAC 173-400-110. The Boeing Company appreciates the open and collaborative way in which this revision was developed.

One important goal of this rulemaking has been to implement the legislative mandate to free insignificant and trivial activities from the traditional new source review process. The structure of the rule as proposed provides this opportunity, but falls short of effecting meaningful reform. We believe several changes to the proposal are necessary if we are to effectively target new source review resources where there is some potential impact on air quality.

We believe the following issues need to be addressed if we are to make this regulation clear, clean and usable in assuring environmental quality. In general, these suggestions follow and support those of the Association of Washington Business.

Issues:

- (1) Applicability. The recent inclusion of the last sentence in the first paragraph of this Section is unnecessary, duplicative and potentially confusing. Worse, it may limit the ability of local air pollution control agencies, including those that regulate all our activities in Washington, to fine-tune and improve their rules. We believe the added sentence adds no value and should be deleted.

Local agencies are in the best position to craft regulations specific to their local needs. More generic, generally applicable WAC regulations should supplement and support those local rules to assure a uniform regulatory base across the state. We understand that WAC 173-400-020 will be revised in the coming months to address the issue of the relationship between Ecology, the local air agencies and EPA. Until that time, we must not undermine the autonomy of these local agencies.

BOEING

- (4) Emission unit and activity exemptions. We note that a number of categorically exempt activities have been regrouped and consolidated from earlier drafts. In some cases, insignificant processes or activities may have been omitted. We request that the following now be added to the exempt list: electrical discharge machining, photographic and microfilm developing and processing, quench tanks, metal joining and cutting operations including brazing, soldering, welding and torch cutting, curing ovens not using TAPs, and vacuum systems less than 850 cfm.
- (5) Exemptions based on emissions thresholds. If agency notification of a de minimis installation is required, and Ecology or the permitting agency is given an opportunity to require additional information on the installation to assure that it will have no impact, Ecology or the agency should be required to act on the notification in a timely manner. It is essential to provide closure to any questions regarding exemption so that the source is assured that its installation has been properly reviewed and is acceptable under the regulation. We understand that the omission of this requirement in the latest draft of this section was an oversight. We request the omitted sentence be reinserted as it appeared in the last circulated draft.
- (5)(c) Exemption threshold table. In order to meet the mandate of the legislature that insignificant or trivial changes be relieved of the need for formal agency review, more realistic exemption thresholds are needed. Unfortunately, the threshold levels proposed by Ecology are not. We do not suggest that the federal criteria contaminant significance thresholds levels are appropriate for defining "insignificant" or "trivial" for new source review. We do propose that a factor of 20 is too conservative and provides little environmental benefit to offset a significant cost to the public. Instead, the proposed thresholds effectively assure that many activities or equipment not specifically listed under the categorical exemptions, but still having no environmental consequence, could no longer be waived by Ecology from new source review. We suggest a factor of 5 is ample for criteria contaminants.

We urge Ecology to reconsider this issue and adopt thresholds that provide real regulatory streamlining while still protecting the environment. Lower, more realistic thresholds are justified. The rule clearly requires that Ecology or the permitting agency be given a summary of all projects not categorically exempt from new source review. Armed with this information, they can always inquire further, and if warranted, require a complete application for approval.

- (11) Change of Conditions. We concur and support the proposal of the Association of Washington Business to add the phrase "as defined at the time of the original approval" to Section (11)(iv).

BOEING

Mr. Tony Warfield

Page 3

- (12) Temporary Installations. On occasion, unexpected or emergency situations require immediate installation or modification of equipment which would otherwise undergo normal new source review. In some cases immediate attention to fixing the problem is necessary to protect life and property. Where equipment installations are temporary, it has been the practice of some local permitting agencies to allow them to proceed pending completion of permanent fixes. We propose adding a categorical exemption for temporary installations at existing sources lasting for no more than 30 days, providing BACT is employed. This would allow sufficient time to obtain an expedited approval if the equipment is needed for a longer period. Because this exemption should not be made without the opportunity for agency review, we suggest that this be placed in a separate section instead of appearing in Table (c) of Section (5).

The Boeing Company appreciates Ecology's commitment to improving the efficiency and cost-effectiveness of Washington's air quality program. Please call me if you have any questions, or if we can provide further information.



Robin G. Bennett
Manager, Environmental Operations
Orgn: G-1242, M/S: 7A-XC
Phone: (425) 865-6717

Attachment: Mark up of WAC 173-400-110

BOEING

WAC 173-400-110 New source review (NSR). (1) Applicability.

This section, WAC 173-400-112 and WAC 173-400-113 apply statewide except where an authority has adopted its own new source review regulations and those regulations are incorporated into the State Implementation Plan. The exemption is subject to the provisions of 173-400-020.

(a) (2) Projects subject to NSR.

A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source, or emission unit, or modification except for those sources exempt under paragraphs (4) or (5) of this section which is listed in WAC 173-400-100 or required to obtain a permit under RCW 70.94.161.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030(9), and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030(43). Notwithstanding any other subsection of this section, a notice of construction application must be filed and an order of approval issued by ecology or an authority prior to establishment of any of the following new sources:

(a) 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 Part AAA, Wood stoves);

(b) any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (except except for asbestos demolition and renovation projects subject to 40 CFR 61.145);

(c) any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants ~~Pollutants~~);

(d) any project that qualifies as a major stationary source, as defined in WAC 173-400-030(41), or a major modification, as defined in WAC 173-400-040(40);

(e) any project that requires an increase in a plant-wide cap or unit specific emission limit.

~~(b) ecology or the authority may require that a notice of construction application be filed by the owner or operator of a proposed new source or modification and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.~~

(e3) Modifications.

New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(4) Emission unit and activity exemptions.

Except as provided in subsection (2) above, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction Application.

(a) maintenance/construction

(i) cleaning and sweeping of streets and paved surfaces,

(ii) concrete application, and installation,

(iii) dredging wet spoils handling and placement,

(iv) paving application and maintenance, excluding asphalt plants,

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

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

(vii) roofing application,

(viii) insulation application and maintenance, excluding products for resale,

(ix) janitorial services and consumer use of janitorial products,

(b) storage tanks

(i) lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating ~~lubricating~~ oils,

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

(iii) storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions,

(iv) process and white water storage tanks

(v) operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft),

(vi) operation, loading and unloading of storage tanks, \leq 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,

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

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

(c) a project with combined combustion units, \leq all of the following:

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

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

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

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

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

(d) material handling

(i) continuous digester chip feeders,

(ii) grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the US Department of Agriculture,

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

(iv) equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mmHg @ 21°C, with lids or other appropriate closure,

(e) water treatment

(i) septic sewer systems, not including active waste water treatment facilities,

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

(iii) de-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in Chapter 173-460 WAC are not emitted,

(iv) process water filtration system and demineralizer vents,

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

(vi) demineralizer tanks

(vii) alum tanks,

(viii) clean water condensate tanks,

(f) environmental chambers and laboratory equipment

(i) environmental chambers, curing ovens and humidity chambers not using Toxic Air Pollutant gases, as regulated under Chapter 173-460 WAC,

(ii) gas cabinets using only gases that are not Toxic Air Pollutants regulated under Chapter 173-460 WAC,

(iii) installation or modification of a single laboratory fume hoods,

(iv) laboratory calibration and maintenance equipment,

(v) vacuum systems rated at less than 850 cfm,

(g) monitoring/quality assurance/testing

(i) equipment and instrumentation used for quality control/assurance or inspection purpose,

- (ii) hydraulic and hydrostatic testing equipment.
- (iii) sample gathering, preparation and management.
- (iv) vents from continuous emission monitors and other analyzers
- (h) miscellaneous
 - (i) single family residences and duplexes.
 - (ii) plastic pipe welding.
 - (iii) primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting.
 - (iv) comfort air conditioning.
 - (v) flares used to indicate danger to the public.
 - (vi) natural and forced air vents and stacks for bathroom/toilet activities
 - (vii) personal care activities.
 - (viii) recreational fireplaces including the use of barbecues, campfires, and ceremonial fires.
 - (ix) tobacco smoking rooms and areas.
 - (x) non-commercial smokehouses.
 - (xi) blacksmith forges for single forges.
 - (xii) vehicle maintenance activities, not including vehicle surface coating.
 - (xiii) vehicle or equipment washing (see (c) for threshold for boilers)
 - (xiv) wax application.
 - (xv) oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment.
 - (xvi) ozone generators and ozonation equipment.
 - (xvii) solar simulators.
 - (xviii) ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in Chapter 173-460 WAC are not emitted.
 - (xix) electrical circuit breakers, transformers, or switching equipment installation or operation.
 - (xx) pulse capacitors.
 - (xxi) pneumatically operated equipment, including tools hand held applicator equipment for hot melt adhesives.
 - (xxii) fire suppression equipment.
 - (xxiii) recovery boiler blow-down tank.
 - (xxiv) screw press vents.
 - (xxv) drop hammers or hydraulic presses for forging or metal working.
 - (xxvi) production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight.
 - (xxvii) Kraft lime mud storage tanks and process vessels.
 - (xxviii) lime grits washers, filters and handling.
 - (xxix) lime mud filtrate tanks.
 - (xxx) lime mud water.
 - (xxxi) stock cleaning and pressurized pulp washing.
 - (xxxii) natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities.
 - (xxxiii) non-Toxic 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 mmHg@ 21°C.
 - (xxxiv) surface coating, aqueous solution or suspension containing \leq 1% (by weight) VOCs, and or Toxic Air Pollutants as defined in Chapter 173-460 WAC.
 - (xxxv) cleaning and stripping activities and equipment using solutions having \leq 1% VOC's (by weight); on metallic substances, acid solutions are not exempt.
 - (xxxvi) dip coating operations, using materials less than 1% VOC's (by weight) and or Toxic Air Pollutants as defined in Chapter 173-460 WAC.
 - (xxxvii) electrical discharge machining
 - (xxxviii) photographic and microfilm developing and processing
 - (xxxix) quench tanks

(xl) portable metal joining and cutting operations, including welding, brazing, soldering and torch cutting

(5) Exemptions based on emissions thresholds.

(a) Except as provided in subsection (2) above and in this subsection:

(i) a new emissions unit that has a potential to emit below each of the threshold levels listed in the table contained in subpart (c) is exempt from new source review provided that the conditions of subpart (b) are met.

(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 subpart (c) is exempt from new source review provided that the conditions of subpart (b) are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with ecology or the authority prior to beginning actual construction on the project. If ecology or the authority determine that the project will have more than a de minimis ~~Minimus~~ impact on air quality, ecology or the authority may require the filing of a Notice of Construction Application. Ecology or the authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. The owner/operator may begin actual construction on the project thirty one days after ecology or the authority receives the summary, unless ecology or the authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(c) Exemption threshold table

<u>(PRIVATE) POLLUTANT</u>	<u>THRESHOLD LEVEL (TONS PER YEAR)</u>
<u>(a) PM10</u>	<u>3.0 0.75</u>
<u>(b) Sulfur Oxides</u>	<u>8.0 2.0</u>
<u>(c) Nitrogen oxides</u>	<u>8.0 2.0</u>
<u>(d) Volatile Organic Compounds, total</u>	<u>8.0 2.0</u>
<u>(e) Carbon Monoxide</u>	<u>20.0 5.0</u>
<u>(f) Lead</u>	<u>0.12 0.005</u>
<u>(g) Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)</u>	<u>1.0</u>
<u>(h) Toxic Air Pollutants</u>	<u>As specified in Chapter 173-401-531 460 WAC.</u>

(26) Completeness determination.

Within thirty days of receipt of a notice of construction application ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD review under WAC 173-400-141, a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(37) Final determination.

(a) Within sixty days of receipt of a complete application, ecology or the authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision.

(b) 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 RCW 70.94.161 and the notice of construction application required by this section. A notice of construction application designated for integrated

review shall be processed in accordance with operating permit program procedures and deadlines as outlined in Chapter 173-401 WAC.

(bc) Every final determination on a notice of construction application shall 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 ecology or the authority.

(ed) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(48) Appeals.

An order of approval, 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. Ecology or the authority shall promptly mail 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 and, where applicable, to the EPA Environmental Appeals Board.

(59) Portable sources.

For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, 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 specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(610) Construction time limitations.

Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. 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 commencement date.

(11) Change of Conditions.

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

(i) the change in conditions will not cause the air contaminant source to exceed an emissions standard;

(ii) no ambient air quality standard or PSD increment will be exceeded as a result of the change;

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

(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.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171, provided that the extent of public comment shall be limited to the proposed changes.

(12) Temporary installations. The temporary installation of source equipment for periods not to exceed 30 days at an existing source shall be exempt from the requirements of this section, provided, best available control technology shall be employed to minimize emissions and the source shall notify ecology or the permitting agency in writing as soon as practicable.



NINETY YEARS OF SERVICE
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'97 SEP -8 P12 :08

Daniel T. Riley
Northwest Regional Manager

September 5, 1997

Mr. Tony Warfield
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Via Fax (360)407-6802
Original Via Overnight Mail

Dear Mr. Warfield:

The process of revising WAC 173-400 has been conducted by Ecology with input from many stakeholders. Western States Petroleum Association wants to take this opportunity to thank the Department of Ecology for keeping lines of communication open during the revision process. The Western States Petroleum Association is a trade association whose members conduct much of the producing, refining, transporting, and marketing of petroleum products in the western United States.

While we support many of the proposed changes to WAC 173-400, we are taking this opportunity to present suggested changes. These changes will result in little, if any, increase in air emissions, but instead, the changes will reduce the work load and stop wasteful expenditure of resources on projects with no real impact to air quality.

COMMENTS:

The addition of the last sentence to the applicability section in WAC 173-400-110 is not necessary and it does not add anything to the existing requirements. In fact, it is confusing and should be deleted. The intent is to allow local authorities with SIP approved programs to use them if they are at least as stringent as the state program. By subjecting this exemption to WAC 173-400-020, a source would need to prove it meets both sets of regulations.

In WAC 173-400-110(4)(c), Emission Unit and Activity Exemptions, fuels are specifically listed with a Btu/hr limit. There is no mention of refinery fuel gas as a fuel. The only place refinery fuel gas could be interpreted to be exempt is in (i) but it does not seem to be the intent of this sentence since it is discussing coal, a solid fuel. We would suggest listing refinery fuel gas separately with a limit of 4,000,000 Btu/hr.

Section (5) of WAC 173-400-110 sets exemptions based on emission thresholds. We strongly feel that emissions which qualify for exemption under this section should not require any notification and petition for deleting section (b) except for the last sentence. If a project is de minimus then the emissions are small enough not to be of concern. This is an area that will require unwarranted manpower for review and documentation from agency personnel and from sources. This especially true in light of the low emission thresholds proposed. The proposed thresholds are currently so low that many insignificant changes will still require new source review. This will certainly not meet your stated objectives of simplifying the NSR regulations or insuring that the control of air emissions is proportional to the effort needed to permit the source. In fact an increased work load is expected because all projects, no matter how trivial, will require agency notification and approval prior to construction. Also, there is no time limit set to review or respond to these requests, and there will be many of them. The type of projects that will fall under the threshold limits usually are projects that need to be done quickly or immediately and even a 30 day response time as suggested in an earlier proposal is not acceptable in many instances. The ability to make minor changes quickly is essential in a competitive global economy.

In section (11), Change of Conditions, a clarification should be made so that it is understood that BACT is the control technology in effect when the emission source was permitted. Sources need to know that they can count on continuing to use the emission control technology they invested in even if BACT has been redefined since the source was constructed.

Finally, WSPA member companies urge that language be included to provide exemption for use of emergency response equipment (e.g., portable power generators) and for emergency response training (e.g., fire, spill or accidental release). That there be no impediments associated with response (or the capability to respond) is consistent with the intent of all environmental legislation and rulemaking: minimizing impact as well as providing for the health and safety of Washington citizens.

WSPA encourages Ecology to continue to seek stakeholders input on regulations. Regulations developed with stakeholder input tend to be more cost effective to the emission sources while still achieving the goals of Ecology's air quality program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel J. Reay". The signature is written in black ink and is positioned below the "Sincerely," text.

Warfield, Anthony G.

From: John.A.Bates.at.~HANFORD21B@ccmail.pnl.gov

Sent: Wednesday, September 10, 1997 11:13 AM

To: awar461@ecy.wa.gov

Subject: Re[2]: Comments Regarding NSR Revised WAC 173-400

Tony,

I received your latest Email. Sorry for the trouble regarding the attached file. I'll try the transmittal once more. My system shows that a separate file was attached, named nsr9-97.doc. This time I have also imported the file to create the following text. Thanks.

John

FDH Comments to WSR 97-15-071 (New Source Review Reform)

WAC 173-400-030

Paragraph (9); Under the definition of "Begin actual construction," a comparison between this proposed definition and this same term in 40 CFR 52.21(b)(11) contain the word "underlayment" vs. "underground," respectively. Suggest making the definition appear exactly as under the federal definition or provide explanation/clarification under the responsiveness summary for usage/intent of the word "underlayment."

WAC 173-400-110

Paragraph (2); to eliminate redundancy from implicit reference to definitions, revise as follows, "...shall mean to "begin actual construction," and "new source" shall include any modification to an existing stationary source. Notwithstanding..."

Paragraph (2)(d); to eliminate redundancy from implicit reference to definitions, revise as follows, "Any project that qualifies as a "major stationary source," or a "major modification;"

Paragraph (4)(f)(iii); revise as follows, "Installation or modification of a single laboratory fume hood, not meeting the definition of a new toxic air pollutant source under WAC 173-460;"

Paragraph (4)(h); add new subparagraph (xxxvii), "Abrasive blasting, consistent with WAC 173-460-030(2)(c)(v)."

Paragraph (5)(b); revise as follows, "...source review under this section shall provide verbal notification, and upon subsequent request (within 5 days) by the Authority, file a brief project summary with the Authority prior to beginning actual construction on the project. If Ecology..."

Paragraph (11); please clarify in the responsiveness summary and/or this paragraph Ecology's expectations to comply with the administrative process under

this paragraph for situations to (1) supersede conditions within a regulatory order and (2) supersede the entire regulatory order. In addition, please provide clarification on enforcement to the general provisions vs. specific conditions section in the regulatory order format.

Forward Header

Subject: Ref[2]: Comments Regarding NSR Revised WAC 173-400
Author: John A Bates at ~HANFORD21B
Date: 9/8/97 5:16 PM

Tony,

I gave it a try. Please see if the attached .doc file works.

Thanks again.

John

Reply Separator

Subject: RE: Comments Regarding NSR
Revised WAC 173-400
Author: "Warfield; Anthony G." <AWAR461@ECY.WA.GOV> at -SMTPLink Date:
9/8/97 3:22 PM

Hi John,

Thanks for the comments. Could you save the attachment as a word file "XXXX.DOC". I can't get my computer to open it.

Thanks

Tony

From: John.A.Bates.at.~HANFORD21B@ccmail.pnl.gov[SMTP:John.A.Bates.at.~HANFORD 21B@ccmail.pnl.gov]
Sent: Monday, September 08, 1997 3:07 PM To: awar461@ecy.wa.gov
Cc: Marsha.A.Beery.at.~EXCHANGE@ccmail.pnl.gov Subject: Comments Regarding NSR Revised WAC 173-400

Tony,

Please accept the following comments, and those attached, as input to the NSR proposed rule review. Please call with any questions.

John

(1) Definitions: it would increase the clarity of the regulation if words or phrases defined in WAC 173-400-030, Definitions, were italicized in the text where the definition is intended; this would alert the reader that a special definition exists and that meaning, as opposed to the common or dictionary meaning, is intended for usage at that point in the text.

(2) Notification and Project Summaries: WAC 173-400-110(5)(b) needs to include text indicating that the owner or operator may proceed if Ecology does not request a project summary within 30 days of filing a notification, or does not request an NOC within 30 days of filing a project summary.

(3) In the context and meaning of a new source subject to a NESHAP, unless otherwise listed as an exemption, it is assumed the NESHAP source is required to file a brief project summary under new source review in addition to the NESHAP requirements.

(4) Section WAC 173-400-110 (2), Projects Subject to NSR, second paragraph, the reference to WAC 173-400-030(43) should read WAC 173-400-030(44) to correctly correspond to the new numbering of definitions.

(5) Section (5)(c), Exemptions based on Emission Thresholds, item (h) toxic air pollutants, it is assumed that the threshold levels for exemption would be the SQER specified for new sources under WAC 173-460. The ASIL would be applied to modifications of existing sources, as well as new sources above the SQER, and would be the controlling factor for BACT.



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'97 SEP -4 A9 :58

September 2, 1997

Tony Warfield
Air Quality Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Comments Regarding Proposed New Source Review Rule Revisions

Dear Mr. Warfield:

Thank you for the opportunity to comment on the proposed rule revisions. We support your efforts to provide clarity and consistent application of these important requirements. We also support your efforts to grant exemptions for emission units where no environmental benefit would be derived if the project were subject to New Source Review. We respectfully request consideration of the issues and suggestions discussed in Attachment A of this correspondence. If you have questions or are in need of additional information, please contact me at (360) 696-8791.

Sincerely,

Steven J. Mrazek
Air Program Coordinator

cc: McLellan - Vanalco
Hildebrandt - Aluminum Environmental Group
Wooster - Goldendale Aluminum Company

ATTACHMENT A

Section 110(1) - Applicability: The last sentence stating that "the exemption is subject to the provisions of 173-400-020" is in need of clarification. Perhaps a sentence, phrase or other descriptor could be added to identify the exemption. As written it seems out of place and the reader cannot easily understand the purpose of the statement.

Section 110(2) - Projects subject to NSR: The revision improves the organization of the section. The clarification as to how certain terms used in the applicability determination are defined is also welcome. One term that may be troubling is the use of the undefined term "project." We suggest rewording subparagraphs (a) through (e) to avoid introducing new and/or additional undefined terms. We suggest using the terms "emission unit", "source" and "modification" instead of the term "project." Lastly, in subsection (c) the word "pollutants" is misspelled.

Section 110(4) - Emission unit and activity exemptions: The exemption for laboratory fume hoods should not be limited to one hood.

Section 110(5)(a) - Exemptions based on emissions thresholds: Emissions from new emission units are determined based on potential to emit whereas modified emission unit emission increases are determined based on actual emissions. We suggest using the same basis for both new and modified emissions units for consistency. We recommend using actual emissions to avoid the debate and absurdity associated with potential to emit for emission units without any discernible air quality impact. Using actual emissions as a basis would allow a company to take credit for control systems included with the new or modified emission unit.

Section 110(5)(b) - Exemptions based on emissions thresholds: This paragraph should be completely eliminated. There is no closure mechanism or time line. There is no obligation for Ecology to respond nor is there any definition of what constitutes a response. Must it be written or is a verbal response acceptable with record keeping at the source? The concept of a project summary ("mini-NOC" or "NOC light") should be eliminated since it effectively removes the exemption otherwise provided. The phrase "de minimis impact on air quality" is undefined. If Ecology has reservations regarding possible odors from new or modified emission units a section should be added stating this directly. Based on our discussion during the public meeting we are nearly certain Ecology will not eliminate this paragraph. The next best option would be to establish a time line for Ecology response and a closure mechanism.

Section 110(5)(c) - Exemption threshold table: We recommend adding a threshold for total suspended particulate (TSP). Many small emission units (establishing a slip stream from an ore belt for raw material sampling and quality control purposes) may involve TSP and not appreciable amounts of PM10. The threshold for Toxic Air Pollutants is vague ("As specified in Chapter 173-460 WAC"). It is our understanding that this currently means the Small Quantity Emission Rates but is left intentionally vague since 173-460 WAC is due for revision and Ecology wishes to prevent the need to reopen 173-400-110 WAC in the future. We suggest adding clarification such that the phrase "As specified in Chapter 173-460 WAC" cannot be construed to mean "ambient fence line concentrations less than the Acceptable Source Impact Level." Given the Small Quantity Emission Rates, the column header of "tons per year" seems inappropriate. In general, the thresholds are too low to fulfill the goal of the exemption legislation which was to apply public and private resources to air quality matters with discernible impacts. We support AWB's proposed revisions to the table.

Section 110(11) - Change of conditions: This section is the single most welcome aspect of the proposed rule revisions and reflects the fact that language adjustments to existing regulatory orders have been, are and will continue to be necessary. This is especially apparent now that Title V permitting is underway. However, a few clarifications are suggested. First, the form of the request is not defined. Is this a NOC or a letter? Are fees required? Is SEPA involved? Second, there is no time line nor obligation for Ecology to respond. We suggest using the same time line as for a NOC. Third, in paragraph (a)(iv) it is stated that "the revised order will continue to require BACT." We suggest clarifying that BACT as established in the original order of approval shall be continued. Otherwise the potential interpretation exists of having an updated more stringent level of BACT applied as a result of a request for language clarification to a ten year old order.



Association of Washington Business

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'97 SEP 10 10:02

Your statewide
business advocate

September 5, 1997

Mr. Tony Warfield
Air Quality Program
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Comments to proposed changes in WAC 173-400-110

Dear Mr. Warfield:

Thank you for the opportunity to comment on revisions proposed to Washington Administrative Code Title 173, Chapter 400 proposed in State Register, number 95-15-071. We want to commend the Department for maintaining open communication with stakeholders throughout the development of this proposal. We believe this is absolutely essential to effective rule development.

The current proposal goes some way toward one of our mutual goals: that of making the new source review requirements clearer and better understood. A second, and certainly no less important goal, has been to better focus limited public and private resources where they will best protect and improve air quality. We believe several changes are necessary; changes which will target new source review where there is some potential impact on air quality, and thereby minimize wasteful expenditure of permitting agency and community resources.

The following issues are of particular concern in making this regulation clearer, cleaner, and more usable in assuring environmental quality. Our suggested changes to the proposed regulation are attached.

Issues:

- (1) Applicability. The recent inclusion of the last sentence in the first paragraph of this Section is unnecessary, duplicative and potentially confusing. Worse, it appears to support a view that local agency rules can be no different than those of the Washington Administrative Code. This would subvert the best attempts of all local air pollution control agencies to fine-tune and improve their rules.

We understand that the relationships between Ecology, the local air agencies and the federal Environmental Protection Agency are subject to interpretation and dispute. We also recognize that WAC 173-400-020 in its present form may limit the flexibility

of local air authorities in designing their new source review programs." If Ecology believes that -020 applies irrespective of the language in -110, there is no point in including the proposed sentence here - it pointlessly duplicates what is stated elsewhere. It would also make more difficult the revision of Section -020 scheduled for review later this year.

If, instead, 400-110 is intended to take precedence, and SIP approved local rules stand on their own, stating that -020 also applies effectively imposes a dual permitting system on all sources under the jurisdiction of a local agency with non-identical regulations. Any new source exempted by a local agency but not specifically exempted by Ecology would be open to challenge that it did not comply with WAC 173-400. This severely undercuts the credibility and effectiveness of local programs.

When finally determining the federal - state - local relationships and responsibilities, we urge you to invoke the language of the Washington State statute which compels "requirements for the control of emissions which are no less stringent than those adopted by the department of ecology". Further, we suggest that you continue to evaluate the overall stringency of entire programs rather than their individual requirements when applying this test.

- (5) Exemptions based on emissions thresholds. If agency notification of a de minimis installation is required, and Ecology or the permitting agency is given an opportunity to require additional information on the installation to assure that it will have no impact, Ecology or the agency should be required to act on the notification within 30 days. In the latest draft of this section the requirement to respond was omitted. It is essential to provide closure to any questions regarding exemption so that the source is assured that its installation has been properly reviewed and is acceptable under the regulation. We suggest re-inserting the omitted sentence as it appeared in the last circulated draft.
- (5)(c) Exemption threshold table. The purpose and intent of the de minimis exemption legislation was to reduce the amount of time and resources spent by business and the regulatory community on the review of installations which have trivial impact on air quality. This re-focus should free up resources to deal with air quality issues of greater importance. Unfortunately, the threshold levels set in this proposal would provide essentially no reduction in either agency or source effort and required resources. In fact, the additional notification procedure for all new sources not specifically exempted under Table (c) would certainly add considerably to the effort required of all concerned. We urge Ecology to reconsider this issue and adopt thresholds that provide real regulatory streamlining, while still protecting the environment.

More realistic thresholds are justified by the permitting agency's ability, once notified per part (5)(b), to seek additional information. If warranted, a complete application for approval to proceed could then be required. The currently proposed thresholds are so low that Ecology should not require notification by sources wishing to be

exempted. Any source able to show its emissions do not exceed these proposed thresholds (particularly those for air toxics) would be extremely unlikely to impair air quality.

- (11) Change of Conditions. It is important to clarify that changes to an Order of Approval do not reset the level of control technology required for the installation. Sources must be assured that approved emission control performance will continue to constitute BACT, even though more recent control technologies may have become available subsequent to the original installation. To clarify this point, we suggest the addition of the phrase "as defined at the time of the original approval" to Section (11)(iv).
- (12) Temporary Installations. On occasion, emergency situations require immediate installation or modification of equipment which would otherwise undergo normal new source review. In many cases these installations are temporary until more permanent fixes can be accomplished. It has been the policy of ecology and most of the permitting agencies to allow temporary installations without the normal new source review process. We suggest the addition of a categorical exemption for temporary installations at existing sources lasting for no more than 30 days, providing BACT is employed. This would allow sufficient time to obtain an expedited approval if the equipment is needed for a longer period. Because this exemption should not be made without the opportunity for agency review, we suggest that this be placed in a separate section instead of appearing in Table (c) of Section (5).

The Association of Washington Business appreciates Ecology's commitment to explore improving the efficiency and cost-effectiveness of Washington's air quality program. If we can provide any additional information or explanation, please don't hesitate to call.

Sincerely,



David Moore
Chair, AWB Air Quality Committee

Attachment: Mark up of WAC 173-400-110

WAC 173-400-110 New source review (NSR). (1) Applicability.

This section, WAC 173-400-112 and WAC 173-400-113 apply statewide except where an authority has adopted its own new source review regulations and those regulations are incorporated into the State Implementation Plan. The exemption is subject to the provisions of 173-400-020.

(a) (2) Projects subject to NSR.

A notice of construction application must be filed by the owner or operator and an order of approval issued by ecology or an authority prior to the establishment of any new source, or emission unit, or modification except for those sources exempt under paragraphs (4) or (5) of this section which is listed in WAC 173-400-100 or required to obtain a permit under RCW 70.94.161.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030(9), and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030(43). Notwithstanding any other subsection of this section, a notice of construction application must be filed and an order of approval issued by ecology or an authority prior to establishment of any of the following new sources:

(a) 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 Part AAA, Wood stoves);

(b) any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (except except for asbestos demolition and renovation projects subject to 40 CFR 61.145);

(c) any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air PollutantsPollutants);

(d) any project that qualifies as a major stationary source, as defined in WAC 173-400-030(41), or a major modification, as defined in WAC 173-400-040(40);

(e) any project that requires an increase in a plant-wide cap or unit specific emission limit.

(b) ecology or the authority may require that a notice of construction application be filed by the owner or operator of a proposed new source or modification and an order of approval issued by ecology or an authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.

(e3) Modifications.

New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(4) Emission unit and activity exemptions.

Except as provided in subsection (2) above, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction Application.

(a) maintenance/construction

(i) cleaning and sweeping of streets and paved surfaces.

(ii) concrete application, and installation.

(iii) dredging wet spoils handling and placement.

(iv) paving application and maintenance, excluding asphalt plants.

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

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

(vii) roofing application.

(viii) insulation application and maintenance, excluding products for resale.

(ix) janitorial services and consumer use of janitorial products.

(b) storage tanks

(i) lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricatinglubricating oils.

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

(iii) storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions,

(iv) process and white water storage tanks

(v) operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft),

(vi) operation, loading and unloading of storage tanks, \leq 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,

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

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

(c) a project with combined combustion units, \leq all of the following:

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

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

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

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

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

(d) material handling

(i) continuous digester chip feeders,

(ii) grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the US Department of Agriculture,

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

(iv) equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mmHg @ 21°C, with lids or other appropriate closure,

(e) water treatment

(i) septic sewer systems, not including active waste water treatment facilities,

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

(iii) de-aeration (oxygen scavenging) of water where Toxic Air Pollutants as defined in Chapter 173-460 WAC are not emitted,

(iv) process water filtration system and demineralizer vents,

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

(vi) demineralizer tanks

(vii) alum tanks,

(viii) clean water condensate tanks,

(f) environmental chambers and laboratory equipment

(i) environmental chambers, curing ovens and humidity chambers not using Toxic Air Pollutant gases, as regulated under Chapter 173-460 WAC,

(ii) gas cabinets using only gases that are not Toxic Air Pollutants regulated under Chapter 173-460 WAC,

(iii) installation or modification of a single laboratory fume hoods,

(iv) laboratory calibration and maintenance equipment,

(v) vacuum systems rated at less than 850 cfm,

(g) monitoring/quality assurance/testing

(i) equipment and instrumentation used for quality control/assurance or inspection purpose,

- (ii) hydraulic and hydrostatic testing equipment,
- (iii) sample gathering, preparation and management,
- (iv) vents from continuous emission monitors and other analyzers
- (h) miscellaneous
 - (i) single family residences and duplexes,
 - (ii) plastic pipe welding,
 - (iii) primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting,
 - (iv) comfort air conditioning,
 - (v) flares used to indicate danger to the public,
 - (vi) natural and forced air vents and stacks for bathroom/toilet activities
 - (vii) personal care activities,
 - (viii) recreational fireplaces including the use of barbecues, campfires, and ceremonial fires,
 - (ix) tobacco smoking rooms and areas,
 - (x) non-commercial smokehouses,
 - (xi) blacksmith forges for single forges,
 - (xii) vehicle maintenance activities, not including vehicle surface coating,
 - (xiii) vehicle or equipment washing (see (c) for threshold for boilers)
 - (xiv) wax application,
 - (xv) oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment,
 - (xvi) ozone generators and ozonation equipment,
 - (xvii) solar simulators,
 - (xviii) ultraviolet curing processes, to the extent that Toxic Air Pollutant gases as defined in Chapter 173-460 WAC are not emitted,
 - (xix) electrical circuit breakers, transformers, or switching equipment installation or operation,
 - (xx) pulse capacitors,
 - (xxi) pneumatically operated equipment, including tools hand held applicator equipment for hot melt adhesives,
 - (xxii) fire suppression equipment,
 - (xxiii) recovery boiler blow-down tank,
 - (xxiv) screw press vents,
 - (xxv) drop hammers or hydraulic presses for forging or metal working,
 - (xxvi) production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight,
 - (xxvii) Kraft lime mud storage tanks and process vessels,
 - (xxviii) lime grits washers, filters and handling,
 - (xxix) lime mud filtrate tanks,
 - (xxx) lime mud water,
 - (xxxi) stock cleaning and pressurized pulp washing,
 - (xxxii) natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities,
 - (xxxiii) non-Toxic 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 mmHg @ 21°C,
 - (xxxiv) surface coating, aqueous solution or suspension containing $\leq 1\%$ (by weight) VOCs, and or Toxic Air Pollutants as defined in Chapter 173-460 WAC,
 - (xxxv) cleaning and stripping activities and equipment using solutions having $\leq 1\%$ VOC's (by weight); on metallic substances, acid solutions are not exempt,
 - (xxxvi) dip coating operations, using materials less than 1% VOC's (by weight) and or Toxic Air Pollutants as defined in Chapter 173-460 WAC,
 - (xxxvii) electrical discharge machining
 - (xxxviii) photographic and microfilm developing and processing
 - (xxxix) quench tanks

(xl) portable metal joining and cutting operations, including welding, brazing, soldering and torch cutting

(5) Exemptions based on emissions thresholds.

(a) Except as provided in subsection (2) above and in this subsection:

(i) a new emissions unit that has a potential to emit below each of the threshold levels listed in the table contained in subpart (c) is exempt from new source review provided that the conditions of subpart (b) are met.

(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 subpart (c) is exempt from new source review provided that the conditions of subpart (b) are met.

(b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with ecology or the authority prior to beginning actual construction on the project. If ecology or the authority determine that the project will have more than a de minimis impact on air quality, ecology or the authority may require the filing of a Notice of Construction Application. Ecology or the authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. The owner/operator may begin actual construction on the project thirty one days after ecology or the authority receives the summary, unless ecology or the authority notifies the owner/operator within thirty days that the proposed new source requires a notice of construction application.

(c) Exemption threshold table

<u>PRIVATE POLLUTANT</u>	<u>THRESHOLD LEVEL (TONS PER YEAR)</u>
<u>(a) PM10</u>	<u>3.0 0.75</u>
<u>(b) Sulfur Oxides</u>	<u>8.0 2.0</u>
<u>(c) Nitrogen oxides</u>	<u>8.0 2.0</u>
<u>(d) Volatile Organic Compounds, total</u>	<u>8.0 2.0</u>
<u>(e) Carbon Monoxide</u>	<u>20.0 5.0</u>
<u>(f) Lead</u>	<u>0.12 0.005</u>
<u>(g) Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)</u>	<u>1.0</u>
<u>(h) Toxic Air Pollutants</u>	<u>As specified in Chapter 173-401-531 460 WAC.</u>

(26) Completeness determination.

Within thirty days of receipt of a notice of construction application ecology or the authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application. For a project subject to PSD review under WAC 173-400-141, a completeness determination includes a determination that the application provides all information required to conduct PSD review.

(37) Final determination.

(a) Within sixty days of receipt of a complete application, ecology or the authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision.

(b) 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 RCW 70.94.161 and the notice of construction application required by this section. A notice of construction application designated for integrated

review shall be processed in accordance with operating permit program procedures and deadlines as outlined in Chapter 173-401 WAC.

(bc) Every final determination on a notice of construction application shall 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 ecology or the authority.

(ed) If the new source is a major stationary source or the change is a major modification, ecology or the authority shall submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(48) Appeals.

An order of approval, 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. Ecology or the authority shall promptly mail 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 and, where applicable, to the EPA Environmental Appeals Board.

(59) Portable sources.

For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, 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 specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(610) Construction time limitations.

Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. Ecology or the authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. 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 commencement date.

(11) Change of Conditions.

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

(i) the change in conditions will not cause the air contaminant source to exceed an emissions standard;

(ii) no ambient air quality standard or PSD increment will be exceeded as a result of the change;

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

(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.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171, provided that the extent of public comment shall be limited to the proposed changes.

(12) Temporary installations. The temporary installation of source equipment for periods not to exceed 30 days at an existing source shall be exempt from the requirements of this section, provided, best available control technology shall be employed to minimize emissions and the source shall notify ecology or the permitting agency in writing as soon as practicable.