

AMENDATORY SECTION (Amending Order 06-03, filed 5/8/07, effective 6/8/07)

WAC 173-400-110 New source review (NSR). In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Applicability.**

(a) This section, WAC 173-400-112 and 173-400-113 apply statewide except where an authority has adopted its own new source review rule.

(b) This section applies to sources as defined in RCW 70.94.030(~~((21))~~) (22), but does not include nonroad engines. Nonroad engines are regulated under WAC 173-400-035.

(2) **Projects subject to NSR - notice of construction application.**

(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by the permitting authority prior to ~~((the establishment))~~ beginning actual construction of any new source, except for the following:

(i) Those sources exempt under subsection (4) or (5) of this section; and

(ii) A source regulated under WAC 173-400-035.

For purposes of this section ~~(("establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030, and))~~ "new source" ~~((shall))~~ includes any modification to an existing stationary source, as defined in WAC 173-400-030, and any new or modified toxic air pollutant source, as defined in WAC 173-460-020.

(b) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the permitting authority prior to ~~((establishment))~~ beginning actual construction of any of the following new sources:

(i) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except ~~((Part))~~ subpart AAA, Wood stoves ((in effect on February 20, 2001)) and except subpart IIII (Standards of Performance for Stationary Compression Ignition Internal Combustion Engines) and subpart JJJJ (Standards of Performance for Stationary Spark Ignition Internal Combustion Engines) as they apply to emergency stationary internal combustion engines with a maximum engine power less than or equal to 500 brake horsepower (federal rules in effect on April 30, 2008);

(ii) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants) (in effect on July 1, 2004), except for asbestos demolition and renovation projects subject to 40 CFR 61.145, and except from sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;

(iii) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories) (~~(in effect on October 1, 2006)~~) except subpart ZZZZ (National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines) as it applies to emergency or limited use stationary reciprocating internal combustion engines with a maximum engine power less than or equal to 500 brake horsepower (federal rules in effect on April 30, 2008);

(iv) Any project that qualifies as a new major stationary source, or a major modification to a major stationary source subject to the requirements of WAC 173-400-112;

(v) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

(c) An applicant filing a notice of construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, must send a copy of the application to the responsible federal land manager.

(3) **Modifications.** New source review of a modification (~~(shall be)~~) is 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; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-720, as applicable.

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

Except as provided in subsection (2) of this section, (~~(establishment of a new emission unit that falls within)~~) the construction or modification of emission units in 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)~~) construction or modification of ((a)) an emission 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 the permitting 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 nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 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 (excluding emergency engines exempted by subsection (4)(h)(xxxix) of this section), \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) (\leq) \leq 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 U.S. Department of Agriculture;

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

(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

(e) Water treatment:

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

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

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

(iv) Process water filtration system and demineralizer vents;

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

(vi) Demineralizer tanks;

(vii) Alum tanks;

(viii) Clean water condensate tanks.

(f) Environmental chambers and laboratory equipment:

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

(v) Laboratory calibration and maintenance equipment.

(g) Monitoring/quality assurance/testing:

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

(ii) Hydraulic and hydrostatic testing equipment;

(iii) Sample gathering, preparation and management;

(iv) Vents from 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) Noncommercial smokehouses;
- (xi) Blacksmith forges for single forges;
- (xii) Vehicle maintenance activities, not including vehicle surface coating;
- (xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);
- (xiv) Wax application;
- (xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- (xvi) Ozone generators and ozonation equipment;
- (xvii) Solar simulators;
- (xviii) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;
- (xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;
- (xx) Pulse capacitors;
- (xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- (xxii) Fire suppression equipment;
- (xxiii) Recovery boiler blow-down tank;
- (xxiv) Screw press vents;
- (xxv) Drop hammers or hydraulic presses for forging or metal working;
- (xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
- (xxvii) Kraft lime mud storage tanks and process vessels;
- (xxviii) Lime grits washers, filters and handling;
- (xxix) Lime mud filtrate tanks;
- (xxx) Lime mud water;
- (xxxii) Stock cleaning and pressurized pulp washing down process of the brown stock washer;
- (xxxiii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
- (xxxiiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;
- (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 $\leq 1\%$ VOCs (by weight); on metallic substances, acid solutions are not exempt;
- (xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.
- (xxxvii) Abrasive blasting performed inside a booth or hangar designed to capture the blast grit or overspray.

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

(xxxix) Emergency generators powered by internal combustion engines with a maximum power of less than or equal to 500 brake horsepower.

(xl) Gasoline dispensing facilities (GDFs) regulated by chapter 173-491 WAC.

(5) Exemptions based on emissions.

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

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

(ii) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

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

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

(d) Exemption level table:

<u>POLLUTANT</u>	<u>LEVEL (TONS PER YEAR)</u>
(a) Total Suspended Particulates	1.25
(b) PM-10	0.75
(c) <u>PM-2.5</u>	<u>0.5</u>
<u>(d)</u> Sulfur Oxides	2.0
((d)) (e) Nitrogen Oxides	2.0
((e)) <u>(f)</u> Volatile Organic Compounds, total	2.0
((f)) <u>(g)</u> Carbon Monoxide	5.0

POLLUTANT	LEVEL (TONS PER YEAR)
((g)) <u>(h)</u> Lead	0.005
((h)) <u>(i)</u> Ozone Depleting Substances (in effect on July 1, 2000), total	1.0
((i)) <u>(j)</u> Toxic Air Pollutants	((As specified in chapter 173-460 WAC:)) <u>The de minimis emission rate specified for each TAP in WAC 173-460-150.</u>

(6) **Application processing - completeness determination.**

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

(b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

(7) **Final determination.**

(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority (~~(shall)~~) must either issue a final decision on the application or for those projects subject to public notice under WAC 173-400-171(1), initiate notice and comment 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 chapter 173-401 WAC and the notice of construction application required by this section. A notice of construction application designated for integrated review (~~(shall)~~) must be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC and must also comply with WAC 173-400-171.

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

(d) If the new source is a major stationary source or the change is a major modification subject to the requirements of WAC 173-400-112, the permitting authority (~~(shall)~~) must:

(i) Submit any control technology determination included in a final order of approval for a major source or a major modification to a major stationary source in a nonattainment area to the RACT/BACT/LAER clearinghouse maintained by EPA; and

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

(8) **Appeals.** Any conditions contained in an order of

approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. The permitting authority (~~shall~~) must 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.

(9) **Construction time limitations.** Approval to construct or modify a stationary source becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The permitting authority may extend the eighteen-month period upon a satisfactory showing that an extension is justified. The extension of a project that is either a major stationary source in a nonattainment area or a major modification in a nonattainment area must also require LAER as it exists at the time of the extension. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commence construction date.

(10) **Change of conditions.**

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

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

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

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

(iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

(v) The revised order meets the requirements of WAC 173-400-110, 173-400-112, 173-400-113 (~~and~~), 173-400-720 and 173-460-040(3), as applicable.

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

(c) 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 must 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~~) 173-455-120 applies to requests filed with ecology as notice of construction applications.

(11) **Enforcement.** All persons who receive an order of

approval must comply with all approval conditions contained in the order of approval.