

## 173-400-700 - Review of major stationary sources of air pollution.

(1) The following sections are to be used by ecology when reviewing and permitting new major stationary sources and major modifications to major stationary sources located in attainment or unclassified areas in Washington.

(2) WAC [173-400-700](#) through [173-400-750](#) apply statewide except:

(a) Where the authority has received delegation of the federal PSD program from EPA or has a SIP approved PSD program.

(b) To projects under the jurisdiction of the energy facility site evaluation council site certification process pursuant to chapter [80.50](#) RCW.

~~—(c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40 CFR 52.21 (z)(5), or to establish an actual Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.~~

(3) The construction of a major stationary source or major modification subject to the permitting requirements of the following section might also be subject to the permitting programs in WAC [173-400-110](#) and [WAC 173-400-800 through 870](#).

173-400-720 Prevention of significant deterioration (PSD).

(1) No major stationary source or major modification to which the requirements of this section apply ~~shall can~~ begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, ~~shall will~~:

- (a) Receive all reports required in the PSD permit;
- (b) Enforce the requirement to apply for a PSD permit when one is required; and
- (c) Enforce the conditions in the PSD permit.

Matt Cohen comment: (4) New language is not helpful.

(4) **Applicable requirements.**

(a) A PSD permit must contain emission limitations and other requirements adequate to assure compliance with the following requirements:

(i) ~~Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:~~

<del>Pollutant</del>	<del>Annual Average</del>	<del>24-Hour Average</del>	<del>8-Hour Average</del>	<del>3-Hour Average</del>	<del>1-Hour Average</del>
<del>CO</del>	<del>-</del>	<del>-</del>	<del>0.5 mg/m<sup>3</sup></del>	<del>-</del>	<del>2 mg/m<sup>3</sup></del>
<del>SO<sub>2</sub></del>	<del>1.0 µg/m<sup>3</sup></del>	<del>5 µg/m<sup>3</sup></del>	<del>-</del>	<del>25 µg/m<sup>3</sup></del>	<del>30 µg/m<sup>3</sup></del>
<del>PM<sub>10</sub></del>	<del>1.0 µg/m<sup>3</sup></del>	<del>5 µg/m<sup>3</sup></del>	<del>-</del>	<del>-</del>	<del>-</del>
<del>NO<sub>2</sub></del>	<del>1.0 µg/m<sup>3</sup></del>	<del>-</del>	<del>-</del>	<del>-</del>	<del>-</del>

~~An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection. WAC 173-400-113(3) and (4).~~

- (ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;
- (iii) WAC 173-400-730 - Prevention of significant deterioration application processing;
- (iv) WAC 173-400-740 - Prevention of significant deterioration public involvement requirements;
- (v) ~~WAC 173-400-116 - Increment Protection;~~ and

(vi) The following subparts of 40 CFR 52.21, in effect on ~~October August 1, 20062010~~, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:

Section	Title
40 CFR 52.21 (a)(2)	Applicability Procedures.

**Comment [ARN1]:** This reference replaces the above table and text. Reduce the number of instances of this table and accompanying text.

**Comment [ARN2]:** New section since under a SIP approved program we have to protect increment.

**Comment [ARN3]:** Trying to capture the effective date of the GHG Tailoring rule and hopefully the PSD PM2.5 increments et al.

40 CFR 52.21 (b)	Definitions.
40 CFR 52.21 (c)	Ambient air increments.
40 CFR 52.21 (d)	Ambient air ceilings.
40 CFR 52.21 (h)	Stack heights.
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.
40 CFR 52.21 (j)	Control technology review.
40 CFR 52.21 (k)	Source impact analysis.
40 CFR 52.21 (l)	Air quality models.
40 CFR 52.21 (m)	Air quality analysis.
40 CFR 52.21 (n)	Source information.
40 CFR 52.21 (o)	Additional impact analysis.
40 CFR 52.21 (r)	Source obligation.
40 CFR 52.21 (v)	Innovative control technology.
40 CFR 52.21 (w)	Permit rescission.
<del>40 CFR 52.21 (x)</del>	<del>Vacated by federal Court Decision.</del>
<del>40 CFR 52.21 (y)</del>	<del>Vacated by federal Court Decision.</del>
<del>40 CFR 52.21</del>	<del>Vacated by federal</del>

<del>(z)</del>	<del>Court Decision.</del>
40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.
<del>40 CFR 52.21 (bb)</del>	<del>Severability clause.</del>
<del>40 CFR 52.21 (cc)</del>	<del>Vacated by federal Court Decision.</del>

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

Al Newman, Sarah Rees, Steve Van Slyke, Matt Cohen:

Discussion about Tailoring Rule and PM2.5 and its impact on a PSD program that is SIP approvable. All we need is the date and the increments. We will insert the latest adopt by reference date that we can insert.

**Comment [ARN4]:** 52.21(e) and (g) are in WAC 173-400-118. (g) is reserved, (p)(1)-(4) is in WAC 173-400-117, (p)(5) – (8) are not currently in state rule, (q) is WAC 173-400-730 & 740, (s) & (t) not part of 51.166 requirements, (u) is non delegable, remainder are vacated or stayed except (bb).

(b) Exceptions to adopting 40 CFR 52.21 by reference.

(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:

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

(B) In 40 CFR 52.21 (l)(2), air quality models, "administrator" means the EPA administrator.

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

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

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

(ii) Each reference in 40 CFR 52.21 (i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC [173-400-117](#), [173-400-720](#), and [173-400-730](#)."

(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:

(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 CFR 52.21 (r)(6) "The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects ~~at a Clean Unit or~~ at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 52.21 (b)(41)(ii)(a) through (c) for calculating projected actual emissions.

(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

~~(A)~~ A description of the project;

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

~~(C)~~ A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph 40 CFR 52.21 (b)(41)(ii)(c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) The owner or operator shall submit a copy of the information set out in paragraph 40 CFR 52.21 (r)(6)(i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC [173-400-110](#). Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 CFR 52.21 (r)(6)(i)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5

**Comment [ARN5]:** Correcting the paragraph numbering to what is found in 40 CFR 52.21(r)(6)

years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 CFR 52.21 (r)(6)(iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 CFR 52.21 (r)(6)(i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c)), by a significant amount (as defined in paragraph 40 CFR 52.21 (b)(23)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 CFR 52.21 (r)(6)(i)(c). Such report ~~shall~~ will be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:

- (a) The name, address and telephone number of the major stationary source;
- (b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and
- (c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection)."

(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 CFR 52.21 (r)(6)(iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).

(E) 40 CFR 52.21 (aa)(2)(ix) PAL permit means the PSD permit, an ecology issued order of approval issued under WAC ~~173-400-110~~, or regulatory order issued under WAC ~~173-400-091~~ issued by ecology that establishes a PAL for a major stationary source.

(F) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC ~~173-400-171~~. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC ~~173-400-730~~ and ~~173-400-740~~.

(G) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.

(H) 40 CFR 52.21 (aa)(14) Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter ~~173-401~~ WAC. The reports shall meet the requirements in paragraphs 40 CFR 52.21 (aa)(14)(i) through (iii).

(I) 40 CFR 52.21 (aa)(14)(ii) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC ~~173-401-615~~ (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC ~~173-401-615~~(3).

## WAC 173-400-730 Prevention of significant deterioration application processing procedures.

### (1) Application submittal.

(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.

(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the following manner:

(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

(ii) One copy to each of the following federal land managers:

(A) U.S. Department of the Interior - National Park Service; and

(B) U.S. Department of Agriculture - U.S. Forest Service.

(iii) One copy to the permitting authority with authority over the source under chapter [173-401](#) WAC.

(iv) One copy to EPA.

(c) Application submittal and processing for ~~requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa)~~ shall be done as provided in WAC [173-400-720](#) (4)(b)(iii).

**(2) Application processing.**

(a) Completeness determination.

(i) Within thirty days after receiving a PSD permit application, ecology shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Ecology may request additional information clarifying aspects of the application after it has been determined to be complete.

(ii) The effective date of the application is the date on which ecology notifies the applicant that the application is complete pursuant to (a)(i) of this subsection.

(iii) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement action taken.

(iv) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) Preparation and issuance of the preliminary determination.

(i) When the application has been determined to be complete, ecology shall begin developing the preliminary determination to approve or deny the application.

(ii) Within one year after receipt of a complete application, ecology shall provide the applicant with a preliminary determination along with a technical support document and a public notice.

(c) Issuance of the final determination.

(i) Ecology shall make no final decision until the public comment period has ended and all comments received during the public comment period have been considered.

(ii) As expeditiously as possible after the close of the public comment period, or hearing if one is held, ecology shall prepare and issue the final determination.

(d) The effective date of a final determination is one of the following dates:

(i) If no comments on the preliminary determination were received, the date of issuance; or

(ii) If comments were received, thirty days after receipt of the final determination; or

(iii) A later date as specified within the PSD permit approval.

(3) **PSD technical support document.** Ecology shall develop a technical support document for each preliminary PSD determination. The preliminary technical support document will be updated prior to issuance of the final determination to reflect changes to the final determination based on comments received. The technical support document shall include the following information:

(a) A brief description of the major stationary source, major modification, or activity subject to review;

(b) The physical location, ownership, products and processes involved in the major stationary source or major modification subject to review;

(c) The type and quantity of pollutants proposed to be emitted into the air;

(d) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;

(e) A brief summary of the basis for the permit approval conditions;

(f) A statement on whether the emissions will or will not cause a state and national ambient air quality standard to be exceeded;

(g) The degree of increment consumption expected to result from the source or modification;

(h) An analysis of the impacts on air quality related values in federal Class I areas and other Class I areas affected by the project; and

(i) An analysis of the impacts of the proposed emissions on visibility in any federal Class I area following the requirements in WAC [173-400-117](#).

(4) **Appeals.** A PSD permit, any conditions contained in a PSD permit, or the denial of PSD permit may be appealed to the pollution control hearings board as provided in chapter [43.21B](#) RCW. A PSD permit issued under the terms of a delegation agreement can be appealed to the EPA's environmental appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

(5) **Construction time limitations.**

(a) Approval to construct or modify a major stationary source becomes invalid if construction is not commenced within eighteen months of the effective date of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The time period between construction of the approved phases of a phased construction project cannot be extended. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(b) Ecology may extend the eighteen-month effective period of a PSD permit upon a satisfactory showing that an extension is justified. A request to extend the effective time to begin or complete actual construction under a PSD permit may be submitted. The request may result from the cessation of on-site construction before completion or failure to begin actual construction of the project(s) covered by the PSD permit.

(i) Request requirements.

(A) A written request for the extension, submitted by the PSD permit holder, as soon as possible prior to the expiration of the current PSD permit.

(B) An evaluation of BACT and an updated ambient impact, including an increment analysis, for all pollutants subject to the approval conditions in the PSD permit.

(ii) Duration of extensions.

(A) No single extension of time shall be longer than eighteen months.

(B) The cumulative time prior to beginning actual construction under the original PSD permit and all approved time extensions shall not exceed fifty-four months.

(iii) Issuance of an extension.

(A) Ecology may approve and issue an extension of the current PSD permit.

(B) The extension of approval shall reflect any revised BACT limitations based on the evaluation of BACT presented in the request for extension and other information available to ecology.

(C) The issuance of an extension is subject to the public involvement requirements in WAC [173-400-740](#).

(iv) For the extension of a PSD permit, ecology must prepare a technical support document consistent with WAC [173-400-730\(3\)](#) only to the extent that those criteria apply to a request to extend the construction time limitation.