

DRAFT

Nonattainment NSR Proposed rule text DRAFT,

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Sections included:

800 Nonattainment NSR description

810 Definitions

820 How to determine emissions change and documenting review of potential applicability

830 Permitting requirements

840 Emission offsets

850 Plant Wide Applicability permits

860 Public involvement – links back to section 171

870 Revisions to nonattainment NSR permits

The PAL program is a required element of the federal NSR programs.

To aid the reviewer in identifying the origin of various section:

- Text in this font are copied from existing section 112 or section 710 or 750
- Text in this font is copied from 40 CFR 51.165.
- Text in this format is new text, sometimes relocated text (see comments for this occurrence) or is editing of existing text to add or delete text as required for inclusion within our rule.
- All section headings are new.

Most comments relate to origin of requirement; where something got relocated to, or to ask questions on particular aspects of a subparagraph.

The federal rules changed significantly with the NSR reforms in 2002 – 8. The changes in ozone criteria as well as implementation rule requirements for PM2.5 have added to the federal requirements that existed when the current language was developed and approved into the SIP.

Matt Cohen's edit:

These requirements apply to any new major stationary source or major modification of an existing major stationary source located in a designated nonattainment area that is major. For which the area is nonattainment.

**173-400-800 Applicability**

These requirements apply to any new major stationary source or major modification of an existing major stationary source located in a designated nonattainment area for the pollutant or pollutants for which the area is designated as not in attainment of one or more national ambient air quality standards.

**173-400-810 Definitions**

(1) The definitions in WAC 173-400-030 are to be used in WAC 173-400-800 through 173-400-850 unless:

- (a) A term is defined differently in WAC 173-400- 810 for use in the major source nonattainment area permitting requirements in WAC 173-400-800 through 850; or
- (b) A term is defined differently in the federal program requirements for issuance, renewal and expiration of a Plant Wide Applicability Limit which are adopted by reference in WAC 173-400-850.

(2) All usage of the term "source" in WAC 173-400-810 through 173-400-850 and in the definitions below is to be interpreted to mean "stationary source" as defined in WAC 173-400-030(82). ~~A stationary source (or source) does not include emissions resulting directly from an internal combustion engine for transportation purposes from a nonroad engine or nonroad vehicle as defined in section 216 of the Federal Clean Air Act.~~

**(3) Specific Definitions for Nonattainment Area Permitting**

~~(a) (xii)(A) Actual emissions means~~

- (i) the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (ii) through (iv) of this definition. (a)(1)(xii)(B) through (D) of this section, except that This definition shall does not apply for when calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (f) of this section 173-400-850. Instead, for purposes of a PAL, the definitions in this section for paragraphs (a)(1)(xxviii) projected actual emissions and (xxv) baseline actual emissions of this section shall apply for those purposes.

- (ii) ~~(B)~~ In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The reviewing/permitting authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

**Comment [ARN1]:** The (1) and (2) sections are copied from 173-400-710 with paragraph references updated for this location.

**Comment [ARN2]:** The proposal to adopt the PAL program in Part 51 Appendix S. This section contains several PAL specific definitions.

**Comment [ARN3]:** This is not accurate. Both terms are used in a context nearly identical to the state law definitions to mean all emissions from the facility (source) or the specific stationary source (emissions unit). See Feb. 27, 1987 memorandum "Plantwide Definition of Major Stationary Sources of Air Pollution", from J. Craig Potter to EPA Regional Office Air Directors.

**Comment [ARN4]:** Deletion not necessary as already part of definition in section -030.

**Comment [ARN5]:** Definitions from 40 CFR 51.165(a)(1) and reordered into alphabetical order. Definitions contained in 030 that are identical to those in 51.163 have been deleted.

**Comment [ARN6]:** Starting at this point the definitions are copied from 51.165 and put into alphabetical order to make it easier to find a definition. Many of these are different than the definitions in 173-400-030. And Once this list is here, there are some definitions in 173-400-030 that could be deleted because they have become superfluous.

**Comment [ARN7]:** I propose to use the defined term rather than the rule citation to identify where to go for the supporting definitions. My take on clear rule writing.

**Comment [ARN8]:** Permitting authority is the term used elsewhere in 173-400

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- (iii) ~~(C)~~ The reviewingpermitting authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
- (iv) ~~(D)~~ For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
- (b) **Baseline actual emissions** means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following paragraphs ~~(a)(1)(xxxv)(A)~~ through ~~(D)~~iv) of this section.
- (i) ~~(A)~~ For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The reviewingpermitting authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
- (A) ~~(1)~~ The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in paragraph ~~(a)(1)(iv)(C)-(iii)~~ of ~~this section~~the definition of major stationary source or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, the average rate shall include fugitive emissions (to the extent quantifiable).
- (B) ~~(2)~~ The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
- (C) ~~(3)~~ For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
- (D) ~~(4)~~ The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph ~~(a)(1)(xxxv)(A)-(2)(i)(B)~~ of this ~~section~~definition.
- (ii) ~~(B)~~ For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the reviewingpermitting authority for a permit required either under ~~this section~~WAC 173-400-800 through 870 or under a plan approved by the Administrator, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

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- (A) ~~(1)~~ The average rate shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in paragraph ~~(iii)(a)(1)(iv)(C)~~ of the definition of major stationary source of this section or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, the average rate shall include fugitive emissions (to the extent quantifiable).
- (B) ~~(2)~~ The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.
- (C) ~~(3)~~ The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 40 CFR Part 63 of this chapter, the baseline actual emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of paragraph (a)(3)(ii)(G) of this section as part of the demonstration of attainment or as reasonable further progress to attain the NAAQS.
- (D) ~~(4)~~ For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used ~~For~~ each regulated NSR pollutant.
- (E) ~~(5)~~ The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs ~~(a)(1)(xxxv)(B)(2) and (3)~~, (ii)(B) and (C) of this section definition.
- (iii) ~~(C)~~ For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit. In the latter case, fugitive emissions, to the extent quantifiable, shall be included only if the emissions unit is part of one of the source categories listed in paragraph ~~(iii)(a)(1)(iv)(C)~~ of the definition of major stationary source of this section or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories.
- (iv) ~~(D)~~ For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph ~~(a)(1)(xxxv)(A)~~ of this section definition, for other existing emissions units in accordance with the

Comment [ARN9]: Can't claim credit for a reduction that has been relied on in an attainment demonstration.

Comment [ARN10]: The replacement text is what the referenced paragraph says

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procedures contained in paragraph ~~(a)(1)(xxvii)(B)~~ of this section definition of, and for a new emissions unit in accordance with the procedures contained in paragraph ~~(a)(1)(xxv)(Cii)~~ of this definition section, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

Al Newman comment: ask Kay is we should eliminate this definition. Al says that the definition of BACT varies several times in the federal code and that we don't use BACT in the 800 section.

- (c) **Best available control technology (BACT)** means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing/permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60 or 61. If the reviewing/permitting authority determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.
- (d) ~~(ii)~~ **Building, structure, facility, or installation** means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel located at the new or modified stationary source. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group ( i.e. , which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).
- (e) ~~(xxiii)~~ **Clean coal technology** means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

Comment [ARN11]: This version differs from the version in -400-030.

Comment [ARN12]: Not in our definition

Comment [ARN13]: 173-400-030(12) says "air pollutant subject to regulation under 70.94.RCW"

Comment [ARN14]: 173-400-030(12) says "new or modified stationary source,"

Comment [ARN15]: At this point the State law and regulation includes the following sentence: "Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990."

Comment [ARN16]: Highlighted text is Not in 173-400 or State law versions. I did not check against the PSD version.

Comment [ARN17]: Copied from Ecology definition of 'secondary emissions' which contains the correction resulting from the 1984 NRDC case. EPA has not incorporated this court decision in its rules yet.

Comment [ARN18]: Should this be replaced or amended with the equivalent NAICS code reference? SIC codes are no longer used and this reference is not archaic.

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- (f) ~~(xxiv)~~ **Clean coal technology demonstration project** means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.
- (g) ~~(xviii)~~ **Construction** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.
- (h) ~~(xxi)~~ **Continuous emissions monitoring system (CEMS)** means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.
- (i) ~~(xxxiii)~~ **Continuous parameter monitoring system (CPMS)** means all of the equipment necessary to meet the data acquisition and availability requirements of this section, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.
- (j) ~~(xxiv)~~ **Continuous emissions rate monitoring system (CERMS)** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
- (k) ~~(xx)~~ **Electric utility steam generating unit** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
- (l) ~~(vii)~~ **Emissions unit** means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric steam generating unit ~~as defined in paragraph (a)(1)(xx) of this section~~. For purposes of this section, there are two types of emissions units: ~~as described in paragraphs (a)(1)(vii)(A) and (B) of this section~~.
- (i) ~~(A)~~ A new emissions unit is any emissions unit which is (or will be) newly constructed and which has existed for less than 2 years from the date such emissions unit first operated.
- (ii) ~~(B)~~ An existing emissions unit is any emissions unit that ~~does not meet the requirements in paragraph (a)(1)(vii)(A) of this section~~ ~~is not a new emissions unit~~. A replacement unit, as defined in WAC 173-400-810(3)(z) paragraph (a)(1)(xxi) of this section, is an existing emissions unit.
- (m) **Fugitive emissions** means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. Fugitive emissions, to the extent quantifiable, are addressed as follows for the purposes of this section:

**Comment [ARN19]:** The CEMs, CPMS and CERMS definitions are used to support the PAL program requirements, but are defined in Appendix S, but the proposed rule language does not rely on the separate definitions section in Appendix S Section II.A.

**Comment [ARN20]:** 173-400-030(28) has a different definition that is inadequate for the nonattainment provisions applicability test. The PSD definition is like this since the language is related to the applicability test.

**Comment [ARN21]:** 173-400-030(35) adds a sentence including orders issued under terms of WAC 173-400-091.

**Comment [ARN22]:** This is much more elaborate that the versions in -030 due to continuous reference to the major source list that includes fugitives given in the definition of major Stationary source

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- (i) ~~(A)~~ In determining whether a stationary source or modification is major, fugitive emissions from an emissions unit are included only if the emissions unit is part of one of the source categories listed in paragraph (iii) of the definition of Major Stationary Source paragraph (a)(1)(iv)(C) (Major source) of this section or the emissions unit is located at a stationary source that belongs to one of those source categories ~~listed in paragraph (a)(1)(iv)(C) of this section~~. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(a)(1)(iv)(C)(iii)~~ of this section ~~definition of Major Stationary Source~~ and that are not, by themselves, part of a listed source category. ~~(See paragraphs (a)(1)(iv)(C) and (a)(1)(v)(G) of this section.)~~
- (ii) ~~(B)~~ For purposes of determining the net emissions increase associated with a project, an increase or decrease in fugitive emissions is creditable only if it occurs at an emissions unit that is part of one of the source categories listed in paragraph ~~(a)(1)(iv)(C)(iii)~~ of the definition of Major Stationary Source of this section or if the emission unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. ~~(See paragraph (a)(1)(vi)(C)(3) of this section.)~~
- (iii) ~~(C)~~ For purposes of determining the projected actual emissions of an emissions unit after a project, fugitive emissions are included only if the emissions unit is part of one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ or if the emission unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. ~~(See paragraph (a)(1)(xxviii)(B)(2) of this section.)~~
- (iv) ~~(D)~~ For purposes of determining the baseline actual emissions of an emissions unit, fugitive emissions are included only if the emissions unit is part of one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ or if the emission unit is located at a major stationary source that belongs to one of the listed source categories, except that, for a PAL, fugitive emissions shall be included regardless of the source category. With the exception of PALs, fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. ~~(See paragraphs (a)(1)(xxxv)(A)(1), (a)(1)(xxxv)(B)(1), (a)(1)(xxxv)(C), and (a)(1)(xxxv)(D) of this section.)~~

- (v) ~~(E)~~ In calculating whether a project will cause a significant emissions increase, fugitive emissions are included only for those emissions units that are part of one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source(a)(1)(iv)(C) of this section~~, or for any emissions units that are located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source (a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. ~~(See paragraph (a)(2)(iii)(B) of this section.)~~
- (vi) ~~(F)~~ For purposes of monitoring and reporting emissions from a project after normal operations have been resumed, fugitive emissions are included only for those emissions units that are part of one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source(a)(1)(iv)(C) of this section~~, or for any emissions units that are located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of Major Stationary Source(a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. ~~(See paragraphs (a)(6)(iii) and (iv) of this section.)~~
- (vii) ~~(G)~~ For all other purposes of this section, fugitive emissions are treated in the same manner as other, non-fugitive emissions. This includes, but is not limited to, the treatment of fugitive emissions for offsets (see ~~WAC 173-400-840(8) paragraph (a)(3) of this section~~) and for PALs (see ~~paragraph (f)(4)(i)(D) of this section 173-400-850(4)(a)(iv)~~).
- (n) ~~(xiii)~~ **Lowest achievable emission rate (LAER)** means, for any source, the **more** stringent rate of emissions based on the following:
  - (i) ~~(A)~~ The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or
  - (ii) ~~(B)~~ The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources.

Ask Kay: What to do about this definition that is different than the state definition.

- (iii) This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within ~~of a~~ stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.
- (o) (iv) ~~(A)~~ **Major stationary source** means:
  - (I) ~~(1)~~ Any stationary source of air pollutants that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR

Comment [ARN23]: Find where is this located or delete the parenthetical phrase. It may be part of the definition of net emissions increase along with wherever 51.166(a)(3) is incorporated

Comment [ARN24]: State law has 'most' and the rule has re ordered the words in the phrase

Comment [ARN25]: 173-400-030(43) has "new or modified source"

Comment [ARN26]: As in the original. Could this mean "the", or "a"?

Comment [ARN27]: This sentence is not part of the 030 definition, copied from state law. Should we add it to that definition and delete this one? If so, how do we rectify the difference?

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pollutant, except that lower emissions thresholds shall apply in areas subject to ~~subpart 2~~ Sections 181-185b, ~~subpart 3~~ Sections 186 and 187, or ~~subpart 4~~ Section s188 - 190 of part D, title I of the federal Clean Air Act~~-. In those areas~~ the following thresholds apply:

Comment [ARN28]: The listed sections and the subparts they replace are equivalent.

1. ~~(i)~~ 50 tons per year of volatile organic compounds in any serious ozone nonattainment area.
2. ~~(ii)~~ 50 tons per year of volatile organic compounds in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.
3. ~~(iii)~~ 25 tons per year of volatile organic compounds in any severe ozone nonattainment area.
4. ~~(iv)~~ 10 tons per year of volatile organic compounds in any extreme ozone nonattainment area.
5. ~~(v)~~ 50 tons per year of carbon monoxide in any serious nonattainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the Administrator).
6. ~~(vi)~~ 70 tons per year of PM-10 in any serious nonattainment area for PM-10;
7. ~~(g)~~  tons per year of PM-2.5 in any serious nonattainment area for PM-2.5.

Comment [ARN29]: Place holder text for when or if EPA defines this value. Delete if there is no value defined for serious nonattainment areas before we go final.

(II) ~~(2)~~ For the purposes of applying the requirements of paragraph ~~(a)(8)173-400-830 of this section~~ to stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, any stationary source which emits, or has the potential to emit, 100 tons per year or more of nitrogen oxides emissions, except that the emission thresholds in paragraphs ( ~~a)(1)(iv)(A)( 2-II)(i1~~ ) through ( ~~vi-6~~ ) of this ~~section definition~~ shall apply in areas subject to ~~Sections 181-185b-subpart 2~~ of part D, title I of the federal Clean Air Act.

1. ~~(i)~~ 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.
2. ~~(ii)~~ 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when such area is located in an ozone transport region.
3. ~~(iii)~~ 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the federal Clean Air Act as attainment or unclassifiable for ozone that is located in an ozone transport region.
4. ~~(iv)~~ 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.
5. ~~(v)~~ 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.
6. ~~(vi)~~ 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; ~~or~~

Comment [ARN30]: Is there a rule reference for this instead of the law?  
No, this would be part of the original SIP approval made in the very early 1970's based on a designation made in the early 1960' in response to the initial version of section 107.

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Paul Mairose comment: Should we mention here that PM is not regulated? We are currently looking at revisions to major grain terminals on the Columbia River. There is no national ambient standard for TSSP. Would have to demonstrate compliance with state regulatory levels. Can we make a statement in the negative rather than the positive that this applies only to PM 10 and 2.5, not all PM.

Matt Cohen comment: This section lists those pollutants for which the emission threshold is less than 100 tons. Just because is pollutant isn't listed doesn't mean that it isn't a major pollutant.

The table is an alternate to the text in (I) and (II) above. Is the table better than the text?

Nonattainment area Thresholds by Status					
Pollutant	Moderate or Marginal	Source located in an Ozone Transport region	Serious	Severe	Extreme
VOC	100	50	50	25	10
CO	100	-	50*	-	-
NOx	100	100	50	25	10
PM-10	100	-	70	-	-
PM-2,5	?	-	?	-	-
			* Where point sources have been determined to contribute significantly to CO nonattainment.		

7.

- (III) ~~(3)~~ Any physical change that would occur at a stationary source not qualifying under paragraphs ~~(a)(1)(iv)(A)(1)~~ or ~~(2)~~ of this section (I) and (II) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.
- (ii) A major stationary source that is major for volatile organic compounds shall be considered major for ozone
- (iii) ~~(C)~~ The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
  - (A) ~~(1)~~ Coal cleaning plants (with thermal dryers);
  - (B) ~~(2)~~ Kraft pulp mills;
  - (C) ~~(3)~~ Portland cement plants;
  - (D) ~~(4)~~ Primary zinc smelters;
  - (E) ~~(5)~~ Iron and steel mills;
  - (F) ~~(6)~~ Primary aluminum ore reduction plants;

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- (G) ~~(7)~~ Primary copper smelters;
- (H) ~~(8)~~ Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (I) ~~(9)~~ Hydrofluoric, sulfuric, or nitric acid plants;
- (J) ~~(10)~~ Petroleum refineries;
- (K) ~~(11)~~ Lime plants;
- (L) ~~(12)~~ Phosphate rock processing plants;
- (M) ~~(13)~~ Coke oven batteries;
- (N) ~~(14)~~ Sulfur recovery plants;
- (O) ~~(15)~~ Carbon black plants (furnace process);
- (P) ~~(16)~~ Primary lead smelters;
- (Q) ~~(17)~~ Fuel conversion plants;
- (R) ~~(18)~~ Sintering plants;
- (S) ~~(19)~~ Secondary metal production plants;
- (T) ~~(20)~~ Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (U) ~~(21)~~ Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (V) ~~(22)~~ Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (W) ~~(23)~~ Taconite ore processing plants;
- (X) ~~(24)~~ Glass fiber processing plants;
- (Y) ~~(25)~~ Charcoal production plants;
- (Z) ~~(26)~~ Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (AA) ~~(27)~~ Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.
- (p) ~~(vi)~~ ~~(A)~~ **Major modification** means any physical change in or change in the method of operation of a major stationary source that would result in:
- (I) ~~(1)~~ A significant emissions increase of a regulated NSR pollutant ~~(as defined in paragraph (a)(1)(xxvii) of this section)~~; and
  - (II) ~~(2)~~ A significant net emissions increase of that pollutant from the major stationary source.
- (ii) ~~(B)~~ Any significant emissions increase ~~(as defined in paragraph (a)(1)(xxvii) of this section)~~ from any emissions units or net emissions increase ~~(as defined in paragraph (a)(1)(vi) of this section)~~ at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.
- (iii) ~~(C)~~ A physical change or change in the method of operation shall not include:
- (I) ~~(1)~~ Routine maintenance, repair and replacement.
  - (II) ~~(2)~~ Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

Comment [ARN31]: Makes threshold size identical to PSD threshold size and fed law.

DRAFT

Nonattainment NSR Proposed rule text DRAFT,

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- ~~(III)~~~~(3)~~ Use of an alternative fuel by reason of an order or rule section 125 of the federal Clean Air Act;
- ~~(III)~~~~(IV)~~ ~~(4)~~ Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- ~~(IV)~~~~(V)~~ ~~(5)~~ Use of an alternative fuel or raw material by a stationary source which;
1. ~~(i)~~ The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or §51.166, or
  2. ~~(ii)~~ The source is approved to use under any permit issued under regulations approved pursuant to this section by the Administrator implementing 40 CFR 51.165;
- ~~(V)~~~~(VI)~~ ~~(6)~~ An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51 subpart I or 40 CFR 51.166.
- ~~(V)~~~~(VII)~~ ~~(7)~~ Any change in ownership at a stationary source.
- ~~(VII)~~ ~~(8)~~ [Reserved]
- ~~(VIII)~~ ~~(9)~~ The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
1. ~~(i)~~ The State Implementation Plan for the State in which the project is located, and
  2. ~~(ii)~~ Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.
- (iv) ~~(D)~~ This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under paragraph (f) of this section for a PAL for that pollutant. Instead, the definition at paragraph (f) 174-400-850(2)(viii) of this section shall apply.
- (v) ~~(E)~~ For the purpose of applying the requirements of ~~(a)(8)WAC 173-400-830(i)~~ of this section to modifications at major stationary sources of nitrogen oxides located in ozone nonattainment areas or in ozone transport regions, whether or not subject to subpart 2 Sections 181 – 185B, part D, title I of the federal Clean Air Act, any significant net emissions increase of nitrogen oxides is considered significant for ozone.
- (vi) ~~(F)~~ Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification

Comment [ARN32]: If use Appendix S by reference, need to locate the term in the adopted sections or some alternate that accomplishes the same reference.

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for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to Sections 181 – 185B~~subpart 2~~, part D, title I of the Act.

- (vii) ~~(G)~~ Fugitive emissions shall not be included in determining for any of the purposes of this section whether a physical change in or change in the method of operation of a major stationary source is a major modification, unless the source belongs to one of the source categories listed in ~~paragraph (a)(1)(iv)(G) of this section~~(iii) of the definition of major stationary source.
- (q) ~~(xvii)~~ Necessary preconstruction approvals or permits means those Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.
- (r) ~~(vi)(A)~~ Net emissions increase means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
- (I) ~~(-1)~~ The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to ~~paragraph (a)(2)(ii) of this section; 173-400-820 (2) and (3);~~ and
  - (II) ~~(-2)~~ Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. In determining the net emissions Baseline increase, baseline actual emissions for calculating increases and decreases ~~under this paragraph (a)(1)(vi)(A)(-2)~~ shall be determined as provided in ~~paragraph (a)(1)(xxv) (the definition of baseline actual emissions) of this section,~~ except that paragraphs ~~(a)(1)(xxv)(A)(-3-C)~~ and ~~(a)(1)(xxv)(B)(-4-D)~~ of the is section definition of baseline actual emissions shall not apply.
- (ii) ~~(B)~~ An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs;
- (iii) ~~(C)~~ An increase or decrease in actual emissions is creditable only if:
- (I) ~~(-1)~~ It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit (ERC). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC. It occurs within a reasonable period to be specified by the reviewing permitting authority; and
  - (II) ~~(-2)~~ The reviewing permitting authority has not relied on it in issuing a permit for the source under regulations approved pursuant to this section, which permit is in effect when the increase in actual emissions from the particular change occurs; and
  - (III) ~~(-3)~~ As it pertains to an increase or decrease in fugitive emissions (to the extent quantifiable), it occurs at an emissions unit that is part of one of the source categories listed in paragraph ~~(iii) of the definition of major stationary source~~(a)(1)(iv)(C) of this section or it occurs at an emissions unit that is located at a major stationary source that

**Comment [ARN33]:** Existing text in 173-400-112 definition of net emissions increase. Propose to retain the current SIP approved criteria.

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belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (iii) of the definition of major stationary source(a)(1)(iv)(C) of this section and that are not, by themselves, part of a listed source category.

- (iv) ~~(D)~~ An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (v) ~~(E)~~ A decrease in actual emissions is creditable only to the extent that:
  - (I) ~~(1)~~ The old level of actual emission or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;
  - (II) ~~(2)~~ It is enforceable as a practical matter at and after the time that actual construction on the particular change begins; and
  - (III) ~~(3)~~ The reviewing/permitting authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR ~~part~~ Part 51 subpart Subpart I or the State has not relied on it in demonstrating attainment or reasonable further progress;
  - (IV) ~~(4)~~ It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (vi) ~~(F)~~ An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (vii) ~~(G)~~ Paragraph ~~(a)(1)(xii)(B) of this section(ii) of the definition of actual emissions~~ shall not apply for determining creditable increases and decreases or after a change.
- (s) ~~(xxx)~~ Nonattainment major new source review (NSR) program means ~~a the~~ major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of ~~this section, or a program that implements 40 CFR part 51.165, or~~ appendix S, Sections I through VI ~~of this chapter~~. Any permit issued under such a program is a major NSR permit.
- (t) ~~(xxvi)~~ Pollution prevention means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.
- (u) Predictive emissions monitoring system (PEMS) means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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- (v) ~~(xli)~~ **Prevention of Significant Deterioration (PSD) permit** means any permit that is issued under ~~a the~~ major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of §51.166 of this chapter, or under the program in ~~§40 CFR~~ 52.21 of this chapter.
- (w) ~~(xxxix)~~ **Project** means a physical change in, or change in the method of operation of, an existing major stationary source.
- ~~(x)~~ ~~(xxviii)(A)~~ **Projected actual emissions** means:—
- (i) the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.
- (ii) ~~(B)~~ In determining the projected actual emissions ~~under paragraph (a)(1)(xxviii)(A) of this section~~ before beginning actual construction, the owner or operator of the major stationary source:
- (A) ~~(1)~~ Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and
- (B) ~~(2)~~ Shall include emissions associated with startups, shutdowns, and malfunctions; and, for an emissions unit that is part of one of the source categories listed in paragraph ~~(iii) of the definition of major stationary source (a)(1)(iv)(C) of this section~~ or for an emissions unit that is located at a major stationary source that belongs to one of the listed source categories, shall include fugitive emissions (to the extent quantifiable); and
- (C) ~~(3)~~ Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions ~~under paragraph (a)(1)(xxv) of this section~~ and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,
- (iii) ~~(4)~~ In lieu of using the method set out in paragraphs ~~(a)(1)(xxviii)(B)(1) through (3)(ii)~~ of this section, **the owner or operator** may elect to use the emissions unit's potential to emit, in tons per year, ~~as defined under paragraph (a)(1)(iii) of this section~~. For this purpose, if the emissions unit is part of one of the source categories listed in paragraph ~~(iii) of the definition of major stationary source (a)(1)(iv)(C) of this section~~ or if the emissions unit is located at a major stationary source that belongs to one

of the listed source categories, the unit's potential to emit shall include fugitive emissions (to the extent quantifiable).

(x)(y) ~~(xxvii)~~ **Regulated NSR pollutant**, for purposes of ~~this section~~ WAC 173-400-800 through 870, means the following:

- (i) ~~(A)~~ Nitrogen oxides or any volatile organic compounds;
- (ii) ~~(B)~~ Any pollutant for which a national ambient air quality standard has been promulgated;
- (iii) ~~(C)~~ Any pollutant that is identified under this paragraph ~~(a)(1)(xxvii)(C)~~ as a constituent or precursor of a general pollutant listed ~~under in~~ paragraph ~~(a)(1)(xxvii)(A) or (B) of this section (i) or (ii) above~~, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. ~~Precursors identified by the Administrator~~ For purposes of NSR precursor pollutants are the following:

- (A) ~~(1)~~ Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.
- (B) ~~(2)~~ Sulfur dioxide is a precursor to PM2.5 in all PM2.5 nonattainment areas.
- (C) ~~(3)~~ Nitrogen oxides are ~~presumed to be precursors~~ precursors to PM2.5 in all PM2.5 nonattainment areas, ~~unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM2.5 concentrations.~~

- (D) ~~(4)~~ Volatile organic compounds and ammonia are ~~presumed not to be precursors to PM2.5 in any PM2.5 nonattainment area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM2.5 concentrations; or~~

- (iv) ~~(D)~~ PM2.5 emissions and PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming EPA rulemaking codifying emission test methods for condensable particulate matter), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM2.5 and PM10 in nonattainment major NSR permits. Compliance with emissions limitations for PM2.5 and PM10 issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to ~~this the effective date of WAC 173-400-800 through 850 made~~ without accounting for condensable particulate matter shall not be considered in violation of this section ~~unless the applicable implementation plan required condensable particulate matter to be included.~~

(y)(z) ~~(xxi)~~ **Replacement unit** means an emissions unit for which all the criteria listed ~~in paragraphs (a)(1)(xxi)(A) through (D) of this section~~ below are met. No

**Comment [ARN34]:** Program decision that we do not have the resources to make a demonstration or reason to presume that NOx might not be a significant contributor to fine particulate. IMPROVE monitors indicate NOx is significant part of the particulate at most monitor sites

**Comment [ARN35]:** Suggested to delete this text as extraneous. Conversely, its presence does not add anything except words.

**Comment [ARN36]:** Used in: Emission unit "A replacement unit, as defined in WAC 173-400-810(3)(z) is an existing emissions unit." Net emissions increase, (r)(vi) (in my reordered definitions) 173-400-840(8)(iii)(B)(b) In this paragraph it uses the concept of a replacement for a shutdown unit related to emission offset credits

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creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

- (i) ~~(A)~~ The emissions unit is a reconstructed unit within the meaning of §40 CFR 60.15(b)(1) of this chapter, or the emissions unit completely takes the place of an existing emissions unit.
- (ii) ~~(B)~~ The emissions unit is identical to or functionally equivalent to the replaced emissions unit.
- ~~(iii)(C)~~ The replacement does not alter the basic design parameters ~~(as discussed in paragraph (h)(2) of this section)~~ of the process unit. Basic design parameters are: (2)
- (A) Except as provided in paragraph (iii)(C) of this section, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content must be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.
- (B) Except as provided in paragraph (iii)(C) of this section, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material of the process unit when selecting a basic design parameter.
- (C) If the owner or operator believes the basic design parameter(s) in paragraphs (iii)(A) and (B) of this section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the reviewing authority an alternative basic design parameter(s) for the source's process unit(s). If the reviewing authority approves of the use of an alternative basic design parameter(s), the reviewing authority will issue a new permit or modify an existing permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).
- (D) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (iii)(A) and (B) of this section.
- (E) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
- ~~(A)(F)~~ Efficiency of a process unit is not a basic design parameter.

**Comment [ARN37]:** The sub sections under this line are the 'basic design parameters' criteria from the stayed 51.165(h). It seem really weird to me to reference stayed provisions as applicable.

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~~(iii)(iv) (D)~~ The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

~~(z)(aa)~~ **Significant emissions increase** means, for a regulated NSR pollutant, an increase in emissions that is significant ~~(as defined in paragraph (a)(1)(x) of this section)~~ for that pollutant.

~~(bb)~~ ~~(x)(A)~~ **Significant** means,

~~(i)~~ -in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant _____	Emission Rate
Carbon monoxide: _____	100 tons per year (tpy)
Nitrogen oxides: _____	40 tpy
Sulfur dioxide: _____	40 tpy
Ozone: _____	40 tpy of volatile organic compounds or nitrogen oxides
Lead: _____	0.6 tpy
PM10: _____	15 tpy
PM2.5: _____	10 tpy of direct PM2.5 emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions. <del>unless demonstrated not to be a PM2.5 precursor under paragraph (a)(1)(xxvii) of this section</del>

~~(i)(ii)~~ Notwithstanding the significant emissions rate for ozone ~~in paragraph (a)(1)(x)(A) of this section~~, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe ozone nonattainment area that is subject to ~~subpart 2~~ Section s 181-185B, part D, title I of the federal Clean Air Act, if such emissions increase of volatile organic compounds exceeds 25 tons per year.

~~(iii)(iii) (C)~~ For the purposes of applying the requirements of WAC 173-400-830(1)(i) paragraph (a)(8) of this section to modifications at major stationary sources of nitrogen oxides located in an ozone nonattainment area or in an ozone transport region, the significant emission rates and other requirements for volatile organic compounds in paragraphs (i), (ii), and (v) of the definition of significant (a)(1)(x)(A), (B), and (E) of this section shall apply to nitrogen oxides emissions.

~~(iii)(iv) (D)~~ Notwithstanding the significant emissions rate for carbon monoxide under paragraph ~~(a)(1)(x)(A) of this section~~ (i) of the definition of significant, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious nonattainment area for carbon monoxide if

such increase equals or exceeds 50 tons per year, provided the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.

~~(iv)(v) (E)~~ Notwithstanding the significant emissions rates for ozone under paragraphs ~~((i) and (ii) of the definition of significant)~~~~(1)(x)(A) and (B) of this section~~, any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone nonattainment area that is subject to ~~Sections 181, 185B~~~~subpart 2~~, part D, title I of the Act shall be considered a significant net emissions increase.

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~~(aa)(cc) (xxii)~~ **Temporary clean coal technology demonstration project** means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State Implementation Plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

~~(bb) (xix)~~ **Volatile organic compounds (VOC)** is as defined in ~~SWAC 173-400-030(??)~~ 51.100(s) of this part.

**173-400-820 Determining if a new stationary source or modification to a stationary source is subject to these Requirements**

~~(2) Applicability procedures. (f) Each plan shall adopt a preconstruction review program to satisfy the requirements of sections 172(c)(5) and 173 of the Act for any area designated nonattainment for any national ambient air quality standard under subpart C of 40 CFR part 81. Such a program shall apply to any (1) Any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Act, if the stationary source or modification would locate anywhere in the designated nonattainment area shall use the following procedures to determine if the new stationary source or modification is subject to the permitting requirements of WAC 173-400-830 - 850.~~

Comment [ARN38]: This is the applicability text in 40 CR 51.165(a)(2), verbatim with text related to "the approved plan must contain" type language removed.

~~(ii) Each plan shall use the specific provisions of paragraphs (a)(2)(ii)(A) through (F) of this section. Deviations from these provisions will be approved only if the State specifically demonstrates that the submitted provisions are more stringent than or at least as stringent in all respects as the corresponding provisions in paragraphs (a)(2)(ii)(A) through (F) of this section.~~

Comment [ARN39]: Seems to make sense to delete the text and just rely on the information of being designated.

~~(A2) Except as otherwise provided in paragraphs (a)(2)(iii) and (iv) of this section, and consistent with the definition of major modification contained in paragraph (a)(1)(v)(A) of this section WAC 173-400-810(??), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in WAC 173-400-810(??) paragraph (a)(1)(xxvii) of this section), and a significant net emissions increase (as defined in WAC 173-400-810(??) paragraphs (a)(1)(vi) and (x) of this section). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.~~

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(B3) The procedure for calculating (before beginning actual construction) whether a significant emissions increase ( *i.e.* , the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (3)(i) through (iii) ~~(a)(2)(iii)(C) through (F)~~ of this section. For these calculations, fugitive emissions (to the extent quantifiable) are included only if the emissions unit is part of one of the source categories listed in paragraph ~~(a)(1)(iv)(C)(iii) of the definition of major stationary source of this section~~ or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories. Fugitive emissions are not included for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph ~~(iii) of the definition of major stationary source (a)(1)(iv)(C) of this section~~ and that are not, by themselves, part of a listed source category. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source ( *i.e.* , the second step of the process) is contained in the definition ~~of net emission increase paragraph (a)(1)(vi) of this section.~~ Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

Comment [ARN40]: Matt C. suggests this needs to be defined. As it seem to be a pretty common term in major NSR applicability determination work, I am not sure that it needs to be defined.

~~(C)i) Actual-to-projected-actual applicability test for projects that only involve existing emissions units.~~ A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions ~~(as defined in WAC 173-400-810(??) paragraph (a)(1)(xxviii) of this section)~~ and the baseline actual emissions ~~(as defined in WAC 173-400-810(??) paragraphs (a)(1)(xxv)(A) and (B) of this section, as applicable)~~, for each existing emissions unit, equals or exceeds the significant amount for that pollutant ~~(as defined in WAC 173-400-810(??) paragraph (a)(1)(x) of this section).~~

~~(D)ii) Actual-to-potential test for projects that only involve construction of a new emissions unit(s).~~ A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit ~~(as defined in WAC 173-400-810(??) paragraph (a)(1)(iii) of this section)~~ from each new emissions unit following completion of the project and the baseline actual emissions ~~(as defined in paragraph (a)(1)(xxv)(C) of this section)~~ of these units before the project equals or exceeds the significant amount for that pollutant ~~(as defined in paragraph (a)(1)(x) of this section).~~

~~(E) [Reserved]~~

~~(F)iii) Hybrid test for projects that involve multiple types of emissions units.~~ A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in ~~paragraphs WAC 173-400-820(3)(a)(2)(iii)(C) through and (D)(vi) of this section~~ as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant ~~(as defined in paragraph WAC 173-400-810(??) (a)(1)(x) of this section).~~

~~(iii)4) The plan shall require that for a~~Any major stationary source ~~for which has~~ a PAL for a regulated NSR pollutant, ~~the major stationary source~~ shall comply with requirements ~~in under paragraph (f) of this section~~WAC 173-400-850.

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~~(65)~~ **Reasonable Possibility:** ~~Each plan shall provide that, e~~ Except as otherwise provided in paragraph ~~(a)(65)(vif)~~ of this section, the following specific provisions apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of paragraph ~~(a)(56)(fv4)~~ of this section, that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs ~~(a)(1)(xxviii)(B)(- 1 ) through (- 3 ) of this section(i)(A) through (C) of the definition of projected actual emissions~~ for calculating projected actual emissions. ~~Deviations from these provisions will be approved only if the State specifically demonstrates that the submitted provisions are more stringent than or at least as stringent in all respects as the corresponding provisions in paragraphs (a)(6)(i) through (vi) of this section.~~

**Comment [ARN41]:** This is from 51.165(a)(6). This is the reasonable possibility text that goes with the applicability test.

- (a) ~~(i)~~ Before beginning actual construction of the project, the owner or operator shall document, and maintain a record of the following information:
- (i) ~~(A)~~ A description of the project;
  - (ii) ~~(B)~~ Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
  - (iii) ~~(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 ~~(a)(1)(xxviii)(B)(- 3 ) of this section(ii)(C) of the definition of projected actual emissions~~ and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- (b) ~~(ii)~~ If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph ~~(a)(56)(ai)~~ of this section to the permitting authority. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph ~~(a)(56)(bii)~~ shall be construed to require the owner or operator of such a unit to obtain any determination from the permitting authority before beginning actual construction.
- (c) ~~(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 units identified in paragraph ~~(a)(65)(ai)(iiB)~~ of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this paragraph ~~(a)(65)(iiic)~~, fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of one of the source categories listed in paragraph ~~(a)(1)(iv)(C) of this section(iii) of the definition of major stationary source~~ or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories.

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- (d) ~~(iv) If the unit is an existing electric utility steam generating unit, t~~he 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 ~~(a)(65)(iii)c~~ of this section setting out the unit's annual emissions, as monitored pursuant to paragraph ~~(a)(65)(iii)c~~ of this section, during the year that preceded submission of the report.
- (e) ~~(v) If the unit is an existing unit other than an electric utility steam generating unit, t~~he 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 ~~(a)(65)(ia)~~ of this section, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph ~~(a)(65)(ia)(Ciii)~~ of this section, by a significant amount (as defined in ~~paragraph (a)(1)(x) of this section the definition of significant~~) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph ~~(a)(65)(ia)(Ciii)~~ of this section. Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:
- (i) ~~(A)~~ The name, address and telephone number of the major stationary source;
  - (ii) ~~(B)~~ The annual emissions as calculated pursuant to paragraph ~~(a)(65)(iii)d~~ of this section; and
  - (iii) ~~(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).
- (f) ~~(vi)~~ A "reasonable possibility" under paragraph ~~(a)(65)~~ of this section occurs when the owner or operator calculates the project to result in either:
- (i) ~~(A)~~ A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," ~~as defined under paragraph (a)(1)(xxviii) of this section~~ (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
  - (ii) ~~(B)~~ A projected actual emissions increase that, added to the amount of emissions excluded under paragraph ~~(ii)(C) of the definition of projected actual emissions (a)(1)(xxviii)(B)(3)~~, sums to at least 50 percent of the amount that is a "significant emissions increase," ~~as defined under paragraph (a)(1)(xxviii) of this section~~ (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of paragraph ~~(a)(65)(vif)(Bii)~~ of this section, and not also within the meaning of paragraph ~~(a)(65)(vif)(Ai)~~ of this section, then provisions ~~(a)(65)(iic)~~ through ~~(vf)~~ do not apply to the project.
- ~~(76) Each plan shall provide that t~~For projects not required to submit the above information to the permitting authority as part of a Notice of Construction ~~reapplication, the~~ owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph ~~(a)(56)~~ of this section available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in ~~§70.4(b)(3)(viii) of this chapter~~Chapter 173-401 WAC.

Comment [ARN42]: Copied from 51.166(a)(7)

Comment [ARN43]: Where is this in WAC 173-401? Or is this the generic public disclosure stuff?

"70.4(b)(3)(viii) Make available to the public any permit application, compliance plan, permit, and monitoring and compliance, certification report pursuant to section 503(e) of the Act, except for information entitled to confidential treatment pursuant to section 114(c) of the Act. The contents of a part 70 permit shall not be entitled to protection under section 115(c) of the Act."

**173-400-830 Permitting Requirements**

(1) The owner or operator of a proposed new major stationary source or a major modification of an existing major stationary source, as determined according to WAC 173-400-820, may be permitted to construct and operate the proposed project provided the following requirements are met:

(a) The proposed new major stationary source or a major modification of an existing major stationary source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with WAC 173-400-113(3) and (34) for all air contaminants for which the area has not been designated nonattainment.

(b) If the proposed new major stationary source or a major modification of an existing major stationary source is a major stationary source or the proposed modification is a major modification, and the permitting authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(c) The proposed new major stationary source or a major modification of an existing major stationary source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, and emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that by Ecology and the permitting authority.

(d) The proposed new major stationary source or a major modification of an existing major stationary source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new major stationary source or major modification to an existing major stationary source is major.

(e) If the proposed new source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, a) allowable emissions from the proposed new source or modification of that air contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the Federal Clean Air Act) reasonable further progress. All offsetting emission reductions must satisfy the following requirements in WAC 173-400-840.:

(i) The proposed new level of allowable emissions of the source or emissions unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission

Comment [ARN44]: Currently 173-400-112(2)(a)

Comment [ARN45]: Since (3) and now (4) are not the only operative criteria for the attainment pollutants in -113, shouldn't the criteria be to the whole section?

Previous -113(3) text broken into 2 separate paragraphs along lines of information content. The table referenced here is now in (4)

Comment [ARN46]: Currently 173-400-112(2)(d)

Comment [ARN47]: Currently 173-400-112(2)(a)

Comment [ARN48]: Currently 173-400-112(2)(b)

Comment [ARN49]: Currently 173-400-112(2)(e)

Comment [ARN50]: I believe this deletion is correct as the criteria for quantity of offsets in proposed section 840. The necessity for the offset to assure further reasonable progress comes from the ERC reduction proposed. A new ERC can only be issued for less the reduction generating the ERC. This assures that as ERCs are issued, there will be a net reduction in emissions from that process and reasonable further progress will occur, regardless of the offset ratio in section 840.

Comment [ARN51]: This is addressed in 173-400-840

~~reductions imposed by local, state, or federal regulations, regulatory orders, or permits required by the Federal Clean Air Act, including the SIP, cannot be credited.~~

~~(ii) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S (in effect on July 1, 2004).~~

~~(iii) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.~~

(f) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules in the SIP.

(g) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720, or the proposed modification is a major modification within the meaning of WAC 173-400-720, it meets the requirements of the PSD program in WAC 173-400-720 for all air contaminants for which the area has not been designated nonattainment.

~~(h) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.~~

(ih) If the proposed new source is a major stationary source within the meaning of WAC 173-400-720/173-400-810, or the proposed modification is a major modification within the meaning of WAC 173-400-720/173-400-810, the project meets the special protection requirements for federal Class I areas in WAC 173-400-117.

(8) ~~The All plan shall provide that the~~ requirements of this section applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in an ozone nonattainment areas or in portions of an ozone transport region where the Administrator of the Environmental Protection Agency has granted a NO<sub>x</sub> waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

~~(5) Each plan shall include enforceable procedures to provide that:~~

(i2) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State or Federal law.

(#3) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or

Comment [ARN52]: This is provided for with section 173-400-840

Comment [ARN53]: This is moved to 173-840(7)

Comment [ARN54]: Currently 173-400-112(2)(f)

Comment [ARN55]: Currently 173-400-112(2)(g)

Comment [ARN56]: Should this paragraph also be in revised -112? Or is it covered similarly to 460 by reference to section -113 for the attainment, unclassified and tap emission?

Comment [ARN57]: Covered in reference to section in113 in proposed revision to section 112.

Comment [ARN58]: Currently 173-400-112(2)(i)

Comment [ARN59]: The text is unchanged but this paragraph derives from 40 CFR 51.307(b).

Comment [ARN60]: Text from 51.165(a)(8). New from last time and seems to fit here as part of the approval criteria.

Comment [ARN61]: Propose to retain this language from the federal text since there is a possibility that all or part of Washington could be considered part of an ozone transport region in the future.

Comment [ARN62]: I assume we want to keep this NOx waiver text.

Comment [ARN63]: These 3 paragraphs are 51.165(a)(5). The first one is deleted, the second 2 are made as independent clauses of the section. Does this make sense or is there a better place to put these requirements? These are not currently part of the non-attainment NSR program in our rule.

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modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of regulations approved pursuant to this section shall apply to the source or modification as though construction had not yet commenced on the source or modification;

### 173-400-840 Emission offset requirements

- (9)(i1) ~~The plan shall require that in meeting the emissions offset requirements of paragraph (a)(3) of this section, the~~ ratio of total actual emissions reductions to the emissions increase shall be ~~at least 1.1:1~~ unless an alternative ratio is provided for the applicable nonattainment area in paragraphs (a)(9)(ii2) through (a)(9)(iv4) of this section.
- (ii2) ~~The plan shall require that in~~ meeting the emissions offset requirements of paragraph (a)(3) ~~WAC 173-400-830 of this section~~ for ozone nonattainment areas that are subject to subpart 2, part D, title I of the Act, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be as follows:
- (Aa) In any marginal nonattainment area for ozone—~~at least~~ 1.1:1;
  - (Bb) In any moderate nonattainment area for ozone—~~at least~~ 1.15:1;
  - (Cc) In any serious nonattainment area for ozone—~~at least~~ 1.2:1;
  - (Dd) In any severe nonattainment area for ozone—~~at least~~ 1.3:1 (except that the ratio may be at least 1.2:1 if the approved plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOC); and
  - (Ee) In any extreme nonattainment area for ozone—~~at least~~ 1.5:1 (except that the ratio may be at least 1.2:1 if the approved plan also requires all existing major sources in such nonattainment area to use BACT for the control of VOC); and
- (iii3) Notwithstanding the requirements of paragraph (a)(9)(ii2) of this section for meeting the requirements of ~~WAC 173-400-830~~ paragraph (a)(3) of this section, the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be ~~at least~~ 1.15:1 for all areas within an ozone transport region that is subject to ~~subpart 2 Sections 181 – 185B~~, part D, title I of the ~~federal Clean Air~~ Act, except for serious, severe, and extreme ozone nonattainment areas that are subject to ~~Sections 181 – 185B~~ subpart 2, part D, title I of the ~~federal Clean Air~~ Act.
- (iv4) ~~The plan shall require that in~~ meeting the emissions offset requirements of ~~WAC 173-400-834~~ paragraph (a)(3) of this section for ozone nonattainment areas that are subject to ~~Sections 171 – 179B~~ subpart 4, part D, title I of the ~~federal Clean Air~~ Act (but are not subject to ~~Sections 181 – 185B~~ subpart 2, part D, title I of the ~~federal Clean Air~~ Act, including 8-hour ozone nonattainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of VOC to the emissions increase of VOC shall be ~~at least~~ 1.1:1.
- (10)5 The ~~plan shall require that the~~ requirements of this section applicable to major stationary sources and major modifications of PM-10 shall also apply to major stationary sources and major modifications of PM-10 precursors, except where the Administrator ~~of the EPA~~ determines that such sources do not contribute significantly to PM-10 levels that exceed the PM-10 ambient standards in the area.
- (14)6 The plan shall require that in meeting the emissions offset requirements of paragraph (a)(3) ~~WAC 173-400-830(1)(e)~~ of this section, the emissions offsets obtained shall be for the same regulated NSR pollutant unless interprecursor

Comment [ARN64]: Copied from 51.165(a)(9), 10), and (11) plus

Comment [ARN65]: Ratio suggested to assure there is a decrease in pollutant in the area leading to reasonable further progress and attainment of the NAAQS the use of 1.1 instead of 1 matches up with the at least criteria and consistency with the O3 marginal area offset ratio.

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offsetting is permitted for a particular pollutant as specified in this paragraph. The plan may allow the offset requirements in WAC 173-400-830(1)(e) paragraph (a)(3) of this section for direct PM<sub>2.5</sub> emissions or emissions of precursors of PM<sub>2.5</sub> to be satisfied by offsetting reductions in direct PM<sub>2.5</sub> emissions or emissions of any PM<sub>2.5</sub> precursor identified under paragraph ~~(a)(1)(xxxvii)~~ (C) of the definition of regulated NSR pollutant in section if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.

**Comment [ARN66]:** As stated better by others, it is strange that it might be your NOx or SO2 that would get you into being subject to PM2.5 nonattainment permitting, yet not be able to use reductions in NOx or SO2 to satisfy offset requirements.

(7) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

**Comment [ARN67]:** (7) text is moved from current 112(2)(e)(iii). Seems to be applicable to offsets such like the rest of this section.

(8) Emission offsets not included in an emission reduction credit issued under WAC 173-400-131, offsets must meet the following criteria:

**Comment [ARN68]:** Following text copied from 51.165(a)(3) and edited only as necessary.

~~(3)(ia) Each plan shall provide that for sources and modifications subject to any preconstruction review program adopted pursuant to this subsection the~~ The baseline for determining credit for emissions reductions is the emissions limit under the applicable State Implementation Plan in effect at the time the Notice of Construction application ~~to construct is filed~~ determined to be complete, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where;

(Ai) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within ~~a the~~ designated nonattainment area ~~for which the preconstruction review program was adopted~~; or

(Bii) The applicable State Implementation Plan does not contain an emissions limitation for that source or source category.

~~(ii) The plan shall further provide that:~~

(b) Other limitations on emission offsets

(Ai) Where the emissions limit under the applicable State Implementation Plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below ~~this the~~ potential to emit;

(Bii) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel being burned at the time the Notice of Construction application ~~to construct is filed~~ is determined to be complete. If the existing source commits to switch to a cleaner fuel at some future date, an emissions offset credit based on the allowable (or actual) emissions reduction resulting from ~~for~~ the fuels involved change is not acceptable, unless the permit or other enforceable order is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to ~~a the~~ higher emitting (dirtier) fuel at some later date. The reviewing-permitting authority ~~should must~~ ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches,

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(~~Ciii~~)(~~4-A~~) Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if they meet the requirements in paragraphs (~~a~~)(~~38~~)(~~ib~~)(~~Ciii~~)(~~4-A~~)(~~ia~~) through (~~ib~~) of this section.

(~~ia~~) Such reductions are surplus, permanent, quantifiable, and federally enforceable.

(~~ib~~) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, ~~a~~ the reviewing-permitting authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the pre shutdown or curtailment emissions from such the previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

(~~2-B~~) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in paragraph (~~a~~)(~~38~~)(~~ib~~)(~~Ciii~~)(~~4-A~~)(~~ib~~) of this section may be generally credited only if:

(~~ia~~) The shutdown or curtailment occurred on or after the date the construction permit application is filed; or

(~~ib~~) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of paragraph (~~a~~)(~~b3~~)(~~iii~~)(~~C~~)(~~4-A~~)(~~ia~~) of this section.

~~(D) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977; (This document is also available from Mr. Ted Creekmore, Office of Air Quality Planning and Standards, (MD-15) Research Triangle Park, NC 27711.))~~

(~~Eiv~~) All emission reductions claimed as offset credit shall be federally enforceable;

(~~Fv~~) ~~Procedures relating to the permissible location of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR part 51 appendix S section IV.D~~ Emission reductions used for offsets may only be from any location within the designated nonattainment area. Except the permitting authority may allow use of emission reductions from another area that is nonattainment for the same pollutant, provided the following conditions are met:

(A) The other area is designated as an equal or higher nonattainment status and

(B) Emissions from the other nonattainment area contribute to violations of the standard in the nonattainment area where the source proposing to use the reduction is located.

**Comment [ARN69]:** EPA has not gotten back to me on whether this policy has been superseded.

There is a lot of stuff over the years on VOCs and reactivity, very little on substitution. The list in Table I of the reference has been expanded and is currently the list of negligibly reactive substances in 40 CFR 51.100(s).

**Comment [ARN70]:** This is my interpretation of what Appendix S Section IV.D. says.

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Nonattainment NSR Proposed rule text DRAFT,

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(Gvi) Credit for an emissions reduction can be claimed to the extent that the ~~reviewing authority~~ ~~reduction~~ has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or the State has not relied on it in demonstration attainment or reasonable further progress.

~~(H) [Reserved]~~

~~(I) [Reserved]~~

(Jvii) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with section 173 of the Act shall be determined by summing the difference between the allowable emissions after the modification ~~(as defined by paragraph (a)(1)(xi) of this section)~~ and the actual emissions before the modification ~~(as defined in paragraph (a)(1)(xii) of this section)~~ for each emissions unit.

### 173-400-850 Actual Emissions Plantwide Applicability Limitation (PAL)

The Actuals Plantwide Applicability limit program contained in Section IV.K of 40 CFR Part 51, Appendix S, Emission Offset Ruling, as of July 1, 2009 is adopted by reference with the following exceptions:

(1) The term "reviewing authority" means "permitting authority" as defined in WAC 173-400-030.

(2) "PAL permit" means the major or minor new source review permit issued that establishes the PAL and those PAL terms as they are incorporated into an air operating permit issued pursuant to chapter 173-401 WAC.

(3) The reference to 40 CFR 70.6(a)(3)(iii)(B) in paragraph IV.K.14. means WAC 173-401-615(3)(b).

(4) No PAL Permit can be issued under this provision until EPA approves this section into the State Implementation Plan.

Comment [ARN71]: This alternate is to adopt by reference Section IV.K of 40 CFR Part 51, Appendix S, Emission Offset Ruling, as of July 1, 2009.

### 173-400-860 Public involvement procedures

The public involvement procedures in WAC 173-400-171 shall be followed, including joint public notifications (integrated review) with any proposed notice of construction approval for the project.

Matt suggests that we eliminate 870 in its entirety. We don't issue permits for something. Matt says that the provisions in 110 cover the permit revision process.

Steve – something about cross pollination and EPA approval of their own words.

Al – something about

### 173-400-870 Revisions to Permits

(1) The owner or operator may request, at any time, a change in conditions of a PSD Nonattainment NSR permit and ~~ecology~~ ~~permitting authority~~ may approve the request provided ~~permitting authority~~ ~~ecology~~ finds that:

(a) The change in conditions will not cause the source to exceed an emissions standard established by regulation;

Comment [ARN72]: Copied verbatim from the PSD section -750 and modified to reflect this is not PSD permitting.

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Nonattainment NSR Proposed rule text DRAFT,

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- (b) ~~No~~ ~~The change will not exceed the ambient air quality standard or delay the attainment of the ambient air quality standard for the pollutant(s) for which the location is in nonattainment or PSD increment will be exceeded as a result of the change;~~
  - (c) The change will not adversely impact the ability of ~~ecology~~ or the permitting authority to determine compliance with an emissions standard;
  - (d) The revised PSD-nonattainment NSR permit will continue to require BACT/LAER, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD-nonattainment NSR permit; and
  - (e) The revised PSD-nonattainment NSR permit continues to meet the requirements of WAC 173-400-840~~173-400-112(2)~~, and 173-400-113, as applicable.
- (2) A request to revise a PSD-nonattainment NSR permit must be acted upon using the timelines found in WAC 173-400-730~~173-400-111~~. ~~The fee schedule found in WAC 173-400-116 shall also apply.~~
- (3) All revisions ~~to PSD permits~~ are subject to public involvement except for the following administrative revisions:
- (a) Change of the owner or operator's business name and/or mailing address;
  - (b) Corrections to typographical errors;
  - (c) Revisions to compliance monitoring methods that do not reduce the permittee's or permitting authority's ~~ecology's~~ ability to determine compliance with the emission limitations; or
  - (d) Any other revision that does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.