In the following sections:
Text in this font are copied from existing section 112
Text in this font is copied from 40 CFR 51.165.
Text in this format has been added or deleted as are all section headings

This is a work in progress to show where the section is headed. Organization is to define a general applicability, give the definitions that pertain to the section, how to determine if emissions increase is subject to nonattainment NSR, offset requirements, and PAL language. The PAL program is a required element of the federal NSR programs. Place holder headings exist at the end in case we determine that permit processing requirements need to be highlighted, such as public involvement and revisions to permits that have been issued.

The federal paragraph references need to all be fixed, especially with reordering the definitions into alphabetical order. The original paragraph numbers in 51.165(a)(1) are currently retained in the definitions.

Most comments relate to origin of requirement, where something got relocated to, need to find proper citations in other rules or to ask questions on particular aspects of a subparagraph.

Highlighted text is to aid finding paragraphs numbers to be corrected from federal structure to this rule's proposed structure.

The federal rules changes 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.

173-400-800 Applicbility
Necessary and appropriate text yet to be developed.

173-400-810 Defintions

(1) ~~(1)~~ The definitions in WAC 173-400-030 are to be used in WAC 173-400-800 through173-400-850 unless:

(a) (a) A term is defined differently in WAC 173-400- 810for use in the major source nonattainment area permitting requirements in WAC 173-400-800 through 173-400-850; or

(b) (b) A term is defined differently in the federal program requirements adopted by reference in WAC 173-400-720.

(2) All usage of the term "source" in WAC 173-400-810 through 173-400-850 and in ~~40 CFR 52.21 as adopted by reference~~the definitions below is to be interpreted to mean "stationary source" as defined in ~~40 CFR 52.21 (b)(5)~~WAC 173-400-810(??). 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) Nonattainment Area Permitting Specific Definitions

(a) ~~(xii)(A)~~ *Actual emissions* means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (a)(1)(xii)(B) through (D) of this section, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under paragraph (f) of this section. Instead, paragraphs (a)(1)(xxviii) and (xxxv) of this section shall apply for those purposes.

(i) ~~(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.

(ii) ~~(C)~~ The ~~reviewing~~permitting authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iii) ~~(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) ~~(xi)~~ *Allowable emissions* means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) (A) The applicable standards set forth in 40 CFR part 60 or 61;

(ii)(B) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

(iii) (C) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(c) ~~(xxxv)~~ *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~~i) 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 ~~reviewing~~permitting 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) of this

Comment [ARN1]: Definitions from 40 CFR 51.165(a)(1) and reordered into alphabetical order. Remaining federal text remains to be changed to reflect making the list alphabetical.

Comment [ARN2]: 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 that 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.

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).

(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) of this section.

(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 ~~reviewing~~permitting authority for a permit required either under this section 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.

(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) 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).

(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 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.

(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) of this section.

(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 (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.

(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, for other existing emissions units in accordance with the procedures contained in paragraph (a)(1)(xxxv)(B) of this section, and for a new emissions unit in accordance with the procedures contained in paragraph (a)(1)(xxxv)(C) of this section, except that fugitive emissions (to the extent quantifiable) shall be included regardless of the source category.

(d) (xv) *Begin actual construction* means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(e) (xvi) Commence as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) (A) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(ii)(B) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(f) (xl) *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.

(g) (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. 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).

(h) (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.

(i) (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.

(j) (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.

(k) (xxxi) *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.

(l) (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_2or CO_2concentrations), and to record average operational parameter value(s) on a continuous basis.

(m)(xxxiv) *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).

(n) (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.

(o) (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. A replacement unit, as defined in paragraph (a)(1)(xxi) of this section, is an existing emissions unit.

(p) (xlii) *Federal Land Manager* means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(q) (xiv) *Federally enforceable* means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

(r) (ix) *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:

(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 (a)(1)(iv)(C) {Major source} of this section or the emissions unit is located at a stationary source that belongs to one of the 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) of this section 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) 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 (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 (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 (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 (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 (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 (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 (a)(1)(iv)(C) of this section and that are not, by themselves, part of a listed source category. (See paragraph (a)(2)(ii)(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 (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 (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 paragraph (a)(3) of this section) and for PALs (see paragraph (f)(4)(i)(D) of this section).

(s) (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. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within or 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.

(t) (i~~v~~)(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 pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the fCAAct, the following thresholds apply:

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;
6.7. ~~(g)~~ ____ tons per year of PM-2.5 in any serious nonattainment area for PM-2.5. (PM-2.5 precurosrs??)

(II) (2) For the purposes of applying the requirements of paragraph (a)(8) 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)(i) through (vi) of this section shall apply in areas subject to subpart 2 of part D, title I of the Act.

7.1. (i) 100 tons per year or more of nitrogen oxides in any ozone nonattainment area classified as marginal or moderate.
8.2. (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.
9.3. (iii) 100 tons per year or more of nitrogen oxides in any area designated under section 107(d) of the Act as attainment or unclassifiable for ozone that is located in an ozone transport region.
10.4. (iv) 50 tons per year or more of nitrogen oxides in any serious nonattainment area for ozone.
11.5. (v) 25 tons per year or more of nitrogen oxides in any severe nonattainment area for ozone.
12.6. (vi) 10 tons per year or more of nitrogen oxides in any extreme nonattainment area for ozone; or

(B) (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 as a major stationary source, if the change would constitute a major stationary source by itself.

	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	?	-	?	-	-

Comment [ARN3]: Placeholder line for serious PM2.5 values if EPA completes it s rule before this one goes to public comment.

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PM- 2.5 Cursors??	?	-	?	-	-
			* Where point sources have been determined to contribute significantly to CO nonattainment.		

(ii)(B) 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;
(G) (*7*) Primary copper smelters;
(H) (*8*) Municipal incinerators capable of charging more than ~~2~~50 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;

Comment [ARN4]: Makes threshold size identical to PSD threshold size.

(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.

(u) (~~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)(xxxvii) 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;

(III)(*3*) Use of an alternative fuel by reason of an order or rule section 125 of the 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 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;

~~(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.

~~(VI)~~(VII) (7) Any change in ownership at a stationary source.

~~(VII)~~(VIII) (8) [Reserved]

~~(VIII)~~(IX) (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)(2)(viii) of this section shall apply.

(v) (E) For the purpose of applying the requirements of (a)(8) 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, part D, title I of the 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 for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to 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)(C) of this section.

(v) (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.

(w) (~~v~~i)(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; 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. 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)(xxxv) {baseline actual emissions} of this section, except that paragraphs (a)(1)(xxxv)(A)(*3*) and (a)(1)(xxxv)(B)(*4*) of this section 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 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 (a)(1)(iv)(C) of this section or it occurs at an emissions unit that is located at a major stationary source that belongs to one of the listed source categories. Fugitive emission increases or decreases are not creditable for those emissions units located at a facility whose primary activity is not represented by one of the source categories listed in paragraph (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 shall not apply for determining creditable increases and decreases or after a change.

(x) (xxx) *Nonattainment major new source review (NSR) program* means a 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 part 51, appendix S, Sections I through VI of this chapter. Any permit issued under such a program is a major NSR permit.

(y) (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.

(z) (iii) *Potential to emit* means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(aa) (xxxii) *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_2or CO_2concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

(bb) (xli) *Prevention of Significant Deterioration (PSD) permit* means any permit that is issued under a 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 §52.21 of this chapter.

(cc) (xxxix) *Project* means a physical change in, or change in the method of operation of, an existing major stationary source.

(dd) (~~xxviii~~i)(A) *Projected actual emissions* means, the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 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.

(i) (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 (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)(xxxv) of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(D) (*4*) In lieu of using the method set out in paragraphs (a)(1)(xxviii)(B)(*1*) through (*3*) of this section, 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 (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).

(ee) (xxxvii) Regulated *NSR pollutant*, for purposes of this section, 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)(xxxvii)(C) as a constituent or precursor of a general pollutant listed under paragraph (a)(1)(xxxvii)(A) or (B) of this section, 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 f~~For purposes of NSR precursors 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 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 PM2.5concentrations~~.

(D) ~~(4) Volatile organic compounds and ammonia are presumed not to be precursors to PM2.5in any PM2.5nonattainment 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 PM2.5concentrations~~; or

Comment [ARN5]: This is proposed, adding NH3 to the PM2.5 precursor list will require a demonstration by Ecology that it is an important precursor pollutant. The demonstration needs to be adequate for EPA Administrator approval.

Comment [ARN6]:

(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 rulemaking codifying test methods), 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 date 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.

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

(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.

(gg) (xxxviii) *Reviewing authority* means the State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under this section and §51.166, or the Administrator in the case of EPA-implemented permit programs under §52.21.

(hh) (viii) *Secondary emissions* means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction of operation of the major stationary source of major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Comment [ARN7]: This whole paragraph needs to be edited to clarify the usage of the revised Method 202 and clarify that we do not use the former PM surrogate policy for PM.25.

Comment [ARN8]: This is the federal term, we can change all instances to permitting authority and loose this definition.

(ii) (i) *Stationary source* means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(jj) (xxvii) *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.

(kk) (x)(A) *Significant* means, 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:

(Alternate A)

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. ~~unless demonstrated not to be a PM2.5precursor under paragraph (a)(1)(xxxvii) of this section~~

(Alternate B)

	Significant Emission rates, tons per year			
Pollutant	Marginal and moderate	Serious	Severe	Extreme
Carbon monoxide:	100	50*	-	-
Nitrogen oxides:	40y	25	25	Any increase in actual emissions
Sulfur dioxide:	40	-	-	-
Volatile organic compounds:	40	25	25	Any increase in actual emissions
Lead:	0.6	-	-	-
PM-10:	15	-	-	-
PM-2.5	10	-	-	-
PM-2.5 Precursors				
Sulfur dioxide	40	-	-	-
Nitrogen oxides	40	-	-	-

Comment [ARN9]: This table is a suggestion that seems to include all that is in the original text of the definition. The table is easier to read.

(The rest of Alternate A)

(i) (B) 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, part

D, title I of the Act, if such emissions increase of volatile organic compounds exceeds 25 tons per year.

(ii)(C) For the purposes of applying the requirements of 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 (a)(1)(x)(A), (B), and (E) of this section shall apply to nitrogen oxides emissions.

(iii) (D) Notwithstanding the significant emissions rate for carbon monoxide under 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 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) (E) Notwithstanding the significant emissions rates for ozone under paragraphs (a)(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 subpart 2, part D, title I of the Act shall be considered a significant net emissions increase.

~~(kk)~~(ll) (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.

~~(ll)~~(mm) (xix) *Volatile organic compounds (VOC)* is as defined in ~~S~~WAC 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. (*i) 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.

~~(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~~

Comment [ARN10]: This is the applicability text in 40 CR 51.165(a)(2), verbatim with text related to "the approved plan must contain" type language.

Comment [ARN11]: Can/Should we cite the federal regulation that contains the nonattainment areas and their descriptions?

~~least as stringent in all respects as the corresponding provisions in paragraphs (a)(2)(ii)(A) through (F) of this section.~~

(~~A~~2) Except as otherwise provided in paragraph~~s~~ ~~(a)~~(~~2~~)4)~~(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.

(~~B~~3) 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 paragraph~~s~~ ~~(a)~~(~~2~~3)~~(ii)(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) 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 (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 in WAC 173-400-810(??)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.

(~~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)(xxxv)(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)(xxxv)(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]~~

(Fiii) *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 1WAC 173-400-820(3)(a)(2)(ii)(C) through and (D)(iv) 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).

(iii4) The plan shall require that for aAny 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 sectionWAC 173-400-850.

(65) Each plan shall provide that, eExcept 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)(gvi) 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 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.

(a) (i) If a Notice of Construction approval is required for the proposed new source or modification and before bBefore beginning actual construction of the project, the owner or operator shall document and subject to the permitting authority 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 and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If a Notice of Construction approval is not required for the proposed new source or modification and before beginning actual construction of the project, the owner or operator shall document and maintain a record of the information required in (5)(a)(i) through (iii) of this section.

(a)(c) (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. If a Notice of Construction approval is required for the project, this submittal shall be submitted with the application for a Notice of Construction approval. 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.

Comment [ARN12]: Here to end from 51.165(a)(6). This is the reasonable possibility text that goes with the applicability test.

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~~(b)~~(d) ~~(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)~~(~~6~~5)(a~~i~~)(ii~~B~~) 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)~~(~~6~~5)(~~iii~~d), 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 or if the emissions unit is located at a major stationary source that belongs to one of the listed source categories.

~~(c)~~(e) ~~(iv)~~ If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph ~~(a)~~(~~6~~5)(~~iii~~d) of this section setting out the unit's annual emissions, as monitored pursuant to paragraph ~~(a)~~(~~6~~5)(~~iii~~d) of this section, during the year that preceded submission of the report.

~~(d)~~(f) ~~(v)~~ If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph ~~(a)~~(~~6~~5)(~~i~~a) of this section, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph ~~(a)~~(~~6~~5)(~~i~~a)(~~C~~iii) of this section, by a significant amount (as defined in paragraph (a)(1)(x) of this section) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph ~~(a)~~(~~6~~5)(~~i~~a)(~~C~~iii) 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)(6)(iii) 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).

~~(e)~~(g) ~~(vi)~~ A "reasonable possibility" under paragraph ~~(a)~~(~~6~~5) of this section occurs when the owner or operator calculates the project to result in either:

~~(iv)~~(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)(xxvii) of this section (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

~~(v)~~(ii) ~~(B)~~ A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (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)(xxvii) of this section (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project

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Comment [ARN13]: We set a different threshold and process in PSD do we want to utilize that process instead?

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for which a reasonable possibility occurs only within the meaning of paragraph ~~(a)~~(~~6~~)(~~vi~~g)(~~B~~ii) of this section, and not also within the meaning of paragraph ~~(a)~~(~~6~~5)(~~vi~~g)(~~A~~i) of this section, then provisions ~~(a)~~(~~6~~5)(~~ii~~c) through (~~v~~f) do not apply to the project.

(~~7~~6) ~~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 Constructin application,the owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph ~~(a)~~(~~5~~6) 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.

Comment [ARN14]: Where is this in WAC 173-401?

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173-400-830 Permitting Requirements
Text from current -400-112(2)

(~~2~~1) The permitting authority that is reviewing an application to establish a new source in a nonattainment area shall issue the order of approval if it determines that the proposed project satisfies each of the following requirements:

(a) The proposed new 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, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

(b) The proposed new 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 source or modification is major.

(c) The proposed new 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~~4) for all air contaminants for which the area has not been designated nonattainment.

Comment [ARN15]: Previous (3) text broken into 2 separate paragraphs along lines of information content. The table referenced here is now in (4)

(d) If the proposed new source is a major stationary source or the proposed modification is a major modification, 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.

(e) If the proposed new source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, 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 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.

(i) 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~~j) The ~~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 ozone nonattainment areas or in portions of an ozone transport region where the Administrator has granted a NO_X waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

Comment [ARN16]: This is addressed in 173-400-840

Comment [ARN17]: This is provided for with section 173-400-840

Comment [ARN18]: This is moved to 173-840(7)

Comment [ARN19]: This paragraph derives from 40 CFR 51.307(b).

Comment [ARN20]: Text from 51.165(a)(8). New from last time and seems to fit here as part of the approval criteria.

Comment [ARN21]: I assume we want to keep this NOx waiver text.

173-400-840 Emission offset requirements

(~~9~~)(~~i~~1) 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)(~~ii~~2) through ~~(a)(9)~~(~~iv~~4) of this section.

(~~ii~~2) ~~The plan shall require that i~~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:

(~~A~~a) In any marginal nonattainment area for ozone—~~at least~~ 1.1:1;

(~~B~~b) In any moderate nonattainment area for ozone—~~at least~~ 1.15:1;

(~~C~~c) In any serious nonattainment area for ozone—~~at least~~ 1.2:1;

(~~D~~d) 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

(~~E~~e) 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

(~~iii~~3) Notwithstanding the requirements of paragraph (~~a~~)(9)(~~ii~~2) 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, part D, title I of the Act, except for serious, severe, and extreme ozone nonattainment areas that are subject to subpart 2, part D, title I of the Act.

(~~iv~~i4) ~~The plan shall require that i~~In meeting the emissions offset requirements of WAC 173-400-830~~paragraph (a)(3) of this section~~ for ozone nonattainment areas that are subject to subpart 1, part D, title I of the Act (but are not subject to subpart 2, part D, title I of the 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 determines that such sources do not contribute significantly to PM–10 levels that exceed the PM–10 ambient standards in the area.

(~~11~~6) The plan shall require that in meeting the emissions offset requirements of paragraph ~~(a)(3)~~WAC 173-400-830 of this section, the emissions offsets obtained shall be for the same regulated NSR pollutant ~~unless interprecursor offsetting is permitted for a particular pollutant as specified in this paragraph. The plan may allow the offset requirements in paragraph (a)(3) of this section for direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ to be satisfied by offsetting reductions in direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor identified under paragraph (a)(1)(xxxvii)(C) of this section if such offsets comply with the~~

Comment [ARN22]: Copied from 51.165(a)(9)

Comment [ARN23]: 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 1.1instead of 1 matches up with the at least criteria and consistency with the O3 marginal area offset ratio.

Comment [ARN24]: Is there AN alternate to this reference to the law?? Could this be a reference to 40 CFR 81.348??

Comment [ARN25]: Can we use a different reference here?like to a rule rather than the fCAA?

Comment [ARN26]: Do we need this text? Is there a better alternate text??

~~interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area~~.

(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.

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

~~(f) *Actuals PALs.* The plan shall provide for PALs according to the provisions in paragraphs (f)(1) through (15) of this section.~~

(1) *Applicability.*

(~~i~~a) The ~~reviewing~~permitting authority may approve the use of an actuals PAL for any existing major stationary source (except as provided in paragraph ~~(f)~~(1)(b~~ii~~) of this section) if the PAL meets the requirements in paragraphs ~~(f)~~(1) through (15) of this section. The term "PAL" shall mean "actuals PAL" throughout ~~paragraph (f) of~~ this section.

(~~ii~~b) The ~~reviewing~~permitting authority shall not allow an actuals PAL for VOC or NO_X for any major stationary source located in an extreme ozone nonattainment area.

(~~iii~~c) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in paragraphs (f)(1) through (15) of this section, and complies with the PAL permit:

(~~A~~i) Is not a major modification for the PAL pollutant;

(~~B~~ii) Does not have to be approved through the plan's nonattainment major NSR program; and

(~~C~~iii) Is not subject to the provisions in paragraph (a)(5)(ii) of this section (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the nonattainment major NSR program).

(~~iv~~d) Except as provided under paragraph ~~(f)~~(1)(~~iii~~c)(~~C~~iii) of this section, a major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

(2) *Definitions.* ~~The plan shall use the definitions in paragraphs (f)(2)(i) through (xi) of this section for the purpose of~~ The following definitions are used exclusively for developing ~~and implementing regulation~~permits that authorize the use of actuals PALs ~~consistent with paragraphs (f)(1) through (15) of this section.~~ When a term is not defined in these paragraphs, it shall have the meaning given in ~~paragraph (a)(1) of this section or in the Act~~WAC 173-400-810.

(~~i~~a) *Actuals PAL* for a major stationary source means a PAL based on the baseline actual emissions (as defined in paragraph (a)(1)(xxxv) of this section) of all emissions units (as defined in paragraph (a)(1)(vii) of this section) at the source, that emit or have the potential to emit the PAL pollutant.

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Comment [ARN27]: Moved from current 112(2)(e)(iii). Seems to be applicable to offsets such like the rest of this section.

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Comment [ARN28]: Copied directly from 51.165(f)

(~~ii~~b) *Allowable emissions* means "allowable emissions" as defined in paragraph (a)(1)(xi) of this section, except as this definition is modified according to paragraphs (f)(2)(ii)(A) through (B) of this section.

(~~A~~i) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(~~B~~ii) An emissions unit's potential to emit shall be determined using the definition in paragraph (a)(1)(iii) of this section, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(~~iii~~c) *Small emissions unit* means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in paragraph (a)(1)(x) of this section or in the Act, whichever is lower.

(~~iv~~d) *Major emissions unit* means:

(~~A~~i) Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or

(~~B~~ii) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.

(~~v~~e) *Plantwide applicability limitation (PAL)* means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs ~~(f)~~(1) through ~~(f)~~(15) of this section.

(~~vi~~f) *PAL effective date* generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(~~vii~~g) *PAL effective period* means the period beginning with the PAL effective date and ending 10 years later.

(~~viii~~h) *PAL major modification* means, notwithstanding ~~paragraphs (a)(1)(v) and (vi) of this section (~~the definitions for major modification and net emissions increase~~)~~, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(~~ix~~i) *PAL permit* means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the plan, or the title V permit issued by the ~~reviewing~~permitting authority that establishes a PAL for a major stationary source.

(~~x~~j) *PAL pollutant* means the pollutant for which a PAL is established at a major stationary source.

(~~xi~~k) *Significant emissions unit* means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in paragraph (a)(1)(x) {definition of significant}~~ of this~~

~~section or in the Act, whichever is lower~~) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in paragraph ~~(f)~~(2)(~~iv~~d) of this section.

(3) *Permit application requirements.* As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the ~~reviewing~~permitting authority for approval:

(i) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, Federal or State applicable requirements, emission limitations or work practices apply to each unit.

(ii) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown and malfunction.

(iii) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph ~~(f)~~(13)(~~i~~a) of this section.

(4) *General requirements for establishing PALs.* (a~~i~~) ~~The plan allows the reviewing authority t~~To establish a PAL at a major stationary source, ~~provided that at a minimum,~~ the requirements in paragraphs ~~(f)~~(4)(~~i~~a)(~~A~~i) through (~~G~~viii) of this section ~~are~~ must be met.

(~~A~~i) The PAL shall impose an annual emission limitation in tons per year~~,~~ that is enforceable as a practical matter~~,~~ for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(~~B~~ii) The PAL shall be established in a PAL permit that meets the public participation requirements in paragraph ~~(f)~~(5) of this section.

(~~C~~iii) The PAL permit shall contain all the requirements of paragraph ~~(f)~~(7) of this section.

(~~D~~iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source, regardless of whether the emissions unit or major stationary source belongs to one of the source categories listed in paragraph (a)(1)(iv)(C){Definition of Major source} of this section.

(~~E~~v) Each PAL shall regulate emissions of only one pollutant.

(vi) The PAL can only cover the pollutant(s) for which the area is nonattainment.

(~~F~~vii) Each PAL shall have a PAL effective period of 10 years.

(~~G~~viii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in

paragraphs ~~(f)~~(12) through (14) of this section for each emissions unit under the PAL through the PAL effective period.

(~~ii~~b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under ~~paragraph (a)(3)(ii) of this section~~WAC 173-400-830 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(5) *Public participation requirement for PALs.* PALs for existing major stationary sources shall be established, renewed, or increased ~~through a procedure that is consistent with §§51.160 and 51.161 of this chapter. This includes the requirement that the reviewing authority provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The reviewing authority must address all material comments before taking final action on the permit~~following the requirements for public coment in WAC 173-400-171.

Comment [ARN29]: Need to make sure this includes nonattainment area NSR and PALs.

(6) *Setting the 10-year actuals PAL level.*

(~~i~~a) Except as provided in paragraph ~~(f)~~(6)(~~ii~~b) of this section, the plan shall provide that the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph (a)(1)(xxxv) of this section) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph (a)(1)(x) of this section or under the Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The ~~reviewing~~permitting authority shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the ~~reviewing~~permitting authority is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

(~~ii~~b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph ~~(f)~~(6)(~~i~~a) of this section, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

(7) *Contents of the PAL permit.* Th~~e plan shall require that the~~ PAL permit must contain, at a minimum, the information in paragraphs ~~(f)~~(7)(~~i~~a) through (~~x~~j) of this section.

(~~i~~a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(~~ii~~b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(~~iii~~c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with paragraph ~~(f)~~(10) of this section before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the ~~reviewing~~permitting authority.

(~~iv~~d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

(~~v~~e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of paragraph ~~(f)~~(9) of this section.

(~~vi~~f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph ~~(f)~~(13)(~~i~~a) of this section.

(~~vii~~g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under paragraph ~~(f)~~(12) of this section.

(~~viii~~h) A requirement to retain the records required under paragraph ~~(f)~~(13) of this section on site. Such records may be retained in an electronic format.

(~~i~~ix) A requirement to submit the reports required under paragraph ~~(f)~~(14) of this section by the required deadlines.

(~~x~~i) Any other requirements that the ~~reviewing~~permitting authority deems necessary to implement and enforce the PAL.

(8) *PAL effective period and reopening of the PAL permit*~~. The plan shall require the information in paragraphs (f)(8)(i) and (ii) of this section.~~

(i~~a~~) *PAL effective period.* ~~The reviewing authority shall specify a~~ A PAL is effective for up to~~period of~~ 10 years.

(~~ii~~b) *Reopening of the PAL permit.* (i)~~A) During the PAL effective period, the plan shall require the reviewing~~ The permitting authority must ~~to~~ reopen the PAL permit to:

(~~1~~ *A*) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.

(~~2~~ *B*) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under paragraph (a)(3)(ii) of this section.

(~~3~~*C*) Revise the PAL to reflect an increase in the PAL as provided under paragraph ~~(f)~~(11) of this section.

(~~B~~ii) The ~~plan shall provide the reviewing~~permitting authority ~~discretion to~~may reopen the PAL permit for the following:

(~~1~~ *A*) Reduce the PAL to reflect newly applicable Federal requirements (for example, NSPS) with compliance dates after the PAL effective date.

(~~2~~*B*) Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the State may impose on the major stationary source under the plan.

(~~3~~ *C*) Reduce the PAL if the ~~reviewing~~permitting authority determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD

increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

(~~C~~iii) Except for the permit reopening the PAL ~~in paragraph (f)(8)(ii)(A)(1) of this section~~ for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of paragraph ~~(f)~~ (5) of this section.

(9) *Expiration of a PAL.* Any PAL which is not renewed in accordance with the procedures in paragraph ~~(f)~~(10) of this section shall expire at the end of the PAL effective period, and the requirements in paragraphs (~~f)~~(9)(~~i~~a) through (~~v~~e) of this section shall apply.

(~~i~~)a Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in paragraphs ~~(f)~~(9)(a)(i)~~(A)~~ and ~~through~~ (~~ii~~B) of this section.

(~~A~~i) Within the time frame specified for PAL renewals in paragraph ~~(f)~~(10)(~~ii~~b) of this section, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the ~~reviewing~~permitting authority) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph ~~(f)~~(10)(~~v~~e) of this section, such distribution shall be made as if the PAL had been adjusted.

(~~B~~ii) The ~~reviewing~~permitting authority shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the ~~reviewing~~permitting authority determines is appropriate.

(~~ii~~b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The ~~reviewing~~permitting authority may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(~~iii~~c) Until the ~~reviewing~~permitting authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph ~~(f)~~(9)(~~i~~a)(~~A~~i) of this section, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(~~iv~~d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification in ~~paragraph (a)(1)(v) of this section~~WAC 173-400-810.

(~~v~~e) The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective

period except for those emission limitations that had been established pursuant to paragraph (a)(5)(ii) of this section, but were eliminated by the PAL in accordance with the provisions in paragraph ~~(f)~~(1)(iii)(C) of this section.

(10) *Renewal of a PAL.* (~~i~~a) The ~~reviewing~~ permitting authority shall follow the procedures specified in paragraph ~~(f)~~(5) of this section in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the ~~reviewing~~permitting authority.

(~~ii~~b) *Application deadline.* The plan shall require that a major stationary source owner or operator shall submit a timely application to the ~~reviewing~~permitting authority to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(~~iii~~c) *Application requirements.* The application to renew a PAL permit shall contain the information required in paragraphs ~~(f)~~(10)(~~iii~~c)(~~A~~i) through (~~D~~iv) of this section.

(~~A~~i) The information required in paragraphs ~~(f)~~(3)(~~i~~a) through (~~iii~~c) of this section.

(~~B~~ii) A proposed PAL level.

(~~C~~iii) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

(~~D~~iv) Any other information the owner or operator wishes the ~~reviewing~~permitting authority to consider in determining the appropriate level for renewing the PAL.

(~~iv~~d) *PAL adjustment.* In determining whether and how to adjust the PAL, the ~~reviewing~~permitting authority shall consider the options outlined in paragraphs ~~(f)~~(10)(~~iv~~d)(~~A~~i) and (~~B~~ii) of this section. However, in no case may any such adjustment fail to comply with paragraph (~~f~~)(10)(~~iv~~d)(~~C~~iii) of this section.

(~~A~~i) If the emissions level calculated in accordance with paragraph (f)(6) of this section is equal to or greater than 80 percent of the PAL level, the ~~reviewing~~permitting authority may renew the PAL at the same level without considering the factors set forth in paragraph ~~(f)~~(10)(~~iv~~d)(~~B~~ii) of this section; or

(~~B~~ii) The ~~reviewing~~permitting authority may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the ~~reviewing~~permitting authority in its written rationale.

(~~C~~iii) Notwithstanding paragraphs (~~f~~)(10)(~~iv~~d)(~~A~~i) and (~~B~~ii) of this section,

(~~1~~ *A*) If the potential to emit of the major stationary source is less than the PAL, the ~~reviewing~~permitting authority shall adjust the PAL to a level no greater than the potential to emit of the source; and

(~~2~~ *B*) The ~~reviewing~~permitting authority shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has

complied with the provisions of paragraph ~~(f)~~(11) of this section (increasing a PAL).

(~~v~~e) If the compliance date for a State or Federal requirement that applies to the PAL source occurs during the PAL effective period, and if the ~~reviewing~~permitting authority has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or title V permit renewal, whichever occurs first.

(11) *Increasing a PAL during the PAL effective period.* (i) The ~~plan shall require that the reviewing~~permitting authority may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs ~~(f)~~(11)(~~i~~a)(~~A~~i) through (~~D~~iv) of this section.

(~~A~~i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(~~B~~ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(~~C~~iii) The owner or operator obtains a major NSR permit for all emissions unit(s) identified in paragraph (f)(11)(i)(A) of this section, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment major NSR program process (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.

(~~D~~iv) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(~~ii~~b) The ~~reviewing~~permitting authority shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with paragraph (f)(11)(i)(B)), plus the sum of the baseline actual emissions of the small emissions units.

(~~iii~~c) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of paragraph (f)(5) of this section.

(12) *Monitoring requirements for PALs* ~~—(~~
(~~i~~a) *General requirements.*
(~~A~~i) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
(~~B~~ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (f)(12)(ii)(A) through (D) of this section and must be approved by the ~~reviewing~~permitting authority.
(~~C~~iii) Notwithstanding paragraph (f)(12)(i)(B) of this section, you may also employ an alternative monitoring approach that meets paragraph (f)(12)(i)(A) of this section if approved by the ~~reviewing~~permitting authority.
(~~D~~iv) Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.
(~~ii~~b) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (f)(12)(iii) through (ix) of this section:
(~~A~~i) Mass balance calculations for activities using coatings or solvents;
(~~B~~ii) CEMS;
(~~C~~iii) CPMS or PEMS; and
(~~D~~iv) Emission Factors.
(~~iii~~c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:
(~~A~~i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
(~~B~~ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
(~~C~~iii) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the ~~reviewing~~permitting authority determines there is site-specific data or a site-specific monitoring program to support another content within the range.
(~~iv~~d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
(~~A~~i) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and

(~~B~~ii) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

(~~v~~e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(~~A~~i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(~~B~~ii) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the ~~reviewing~~permitting authority, while the emissions unit is operating.

(~~vi)~~f Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(~~A~~i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(~~B~~ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(~~C~~iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the ~~reviewing~~permitting authority determines that testing is not required.

(~~vii~~g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(~~viii~~h) Notwithstanding the requirements in paragraphs ~~(f)~~(12)(~~iii~~c) through (~~vii~~g) of this section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the ~~reviewing~~ permitting authority shall, at the time of permit issuance:

(~~A~~i) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(~~B~~ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(~~ix~~i) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the ~~reviewing~~permitting authority. Such testing must occur at least once every 5 years after issuance of the PAL.

(13) *Recordkeeping requirements.* (~~i~~a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of ~~paragraph (f) of this section~~WAC 173-400-850 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(~~ii~~b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

(~~A~~i) A copy of the PAL permit application and any applications for revisions to the PAL; and

(~~B~~ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

(14) *Reporting and* notification *requirements.* The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the ~~reviewing~~permitting authority in accordance with the applicable title V operating permit program. The reports shall meet the requirements in paragraphs (f)(14)(i) through (iii).

(~~i~~)a Semi-Annual Report. The semi-annual report shall be submitted to the ~~reviewing~~permitting authority within 30 days of the end of each reporting period. This report shall contain the information required in paragraphs (f)(14)(i)(A) through (G) of this section.

(~~A~~i) The identification of owner and operator and the permit number.

(~~B~~ii) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph ~~(f)~~(13)(a~~i~~) of this section.

(~~C~~iii) All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

(~~D~~iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

(~~E~~v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

(~~F~~vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph ~~(f)~~(12)(~~viig~~) of this section.

(~~G~~vii) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(~~ii~~b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to §70.6(a)(3)(iii)(B) of this chapter shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing §70.6(a)(3)(iii)(B) of this chapter. The reports shall contain the following information:

(~~A~~i) The identification of owner and operator and the permit number;

(~~B~~ii) The PAL requirement that experienced the deviation or that was exceeded;

(~~C~~iii) Emissions resulting from the deviation or the exceedance; and

Comment [ARN30]: Need to find where this is in 173-401

Comment [ARN31]: Need tp find where this is in 173-401

(~~D~~iv) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(~~iii~~c) Re-validation results. The owner or operator shall submit to the ~~reviewing~~permitting authority the results of any re-validation test or method within 3 months after completion of such test or method.

~~(15) *Transition requirements.* (i) No reviewing authority may issue a PAL that does not comply with the requirements in paragraphs (f)(1) through (15) of this section after the Administrator has approved regulations incorporating these requirements into a plan.~~

~~(ii) The reviewing authority may supersede any PAL which was established prior to the date of approval of the plan by the Administrator with a PAL that complies with the requirements of paragraphs (f)(1) through (15) of this section.~~

~~(g) If any provision of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.~~

[51 FR 40669, Nov. 7, 1986, as amended at 52 FR 24713, July 1, 1987; 52 FR 29386, Aug 7, 1987; 54 FR 27285, 27299 June 28, 1989; 57 FR 3946, Feb. 3, 1992; 57 FR 32334, July 21, 1992; 67 FR 80244, Dec. 31, 2002; 68 FR 61276, Oct. 27, 2003; 68 FR 63027, Nov. 7, 2003; 69 FR 40275, July 1, 2004; 70 FR 71698, Nov. 29, 2005; 72 FR 24077, May 1, 2007; 72 FR 32528, June 13, 2007; 72 FR 72616, Dec. 21, 2007; 73 FR 28347, May 16, 2008; 73 FR 77895, Dec. 19, 2008]

173-400-860 Revisions to Permits

Copy from PSD?? Use 110??

173-400-870 Public involvement procedures

Reference to -171 in all the appropriate places should be all that is needed.

173-400-880 Administrative record requirements for permit issuance.

Do we need to define what makes a permit decision record?? Should it be in rule or in guidance or just let the local offices decid what is good enough? NOTE the PAL stuff is already pretty detailed on administrative record information.

Comment [ARN32]: Need tp find where this is in 173-401

Comment [ARN33]: Why do we need the transition requirements stuff? Alternately, should the text be written that no PAL can be issued until EPA approves the SIP that contains these requirements?

Comment [ARN34]: We don't need this severance text. To the extent required it is already part of the exiting rule text.

Comment [ARN35]: Is ist useful or necessary to include what is done torevise an NOC that contains nonattainment permitting requirements? Should we rely on the language in section 110 or copy the PSD revision section?

Comment [ARN36]: This is a placeholder whil assuring that section 171 contains all the necessary public involvement requirements. 173-400-171 probably is adequate since it was written with the requirements of Subpart I in mind.