

Chapter 173-400 WAC General Regulations for Air Pollution Sources

Objectives for rule making 2009

This rule making has three focal points:

1. Development of non-attainment area New Source Review (NSR) rules,
2. Correcting previously identified SIP deficiencies, and
3. General housekeeping.

Nonattainment NSR

- **WAC 173-400-800 through 850** With the upcoming nonattainment designations for PM 2.5, the EPA requires a NSR program for these areas. The current state rules for nonattainment NSR were adopted in the 1980's. They have become obsolete by EPA rulemaking and need to be completely updated.
- **WAC 173-400-131** Issuance of emission reduction credits, and **WAC 173-400-136** Use of emission reduction credits will need to be updated as well as part of the Non Attainment Area NSR

Correcting SIP deficiencies

During the 2005 rule revision process, EPA identified a series of SIP deficiencies in our rule language. Since the 2005 rulemaking, we have met with EPA to get a final, mutually agreed upon list of SIP deficiencies which includes these rule sections:

- **WAC 173-400-030 Definitions.**
 - (86) need a specific test method for Total Reduced Sulfur
 - (92) Update the definition of "volatile organic compound" to reflect current federal definition.
- **WAC 173-400-035 WAC Portable and Temporary Sources.** Issue: Clarify "temporary", "stationary" and "non-road" sources. Determine which nonroad engines we want to regulate or which nonroad engines to exempt. Clarify that portable stationary sources are required to go through new source review before locating in any given jurisdiction for the first time.
- **WAC 173-400-050(3)** Issue: Does the current language that allows the permitting authority to determine if alternate oxygen correction factors are appropriate give too much discretion to the authority? Have we ever used this provision? Do we need to retain it?
- **WAC 173-400-081 WAC Startup and Shutdown.** Issue: The language needs to be revised to make absolutely clear that this section only applies to requirements established

in a permit or order when they are being established, and not to pre-existing requirements in a permit/order, the SIP or a federal rule.

- **WAC 173-400-105 WAC Records, Monitoring, and Reporting.** Issue: Subsection (5)(h) as it relates to monitoring system malfunctions is unclear the provision is intended to apply only to monitoring required under WAC 173-400-105(5) or whether it is intended to apply to all monitoring required under WAC Chapter 173-400. In addition, the reference to the determination being made by “permitting authority” creates problems for EPA.
- **WAC 173-400-107 WAC Excess Emissions.** Issue: The rule needs to state that we can write conditions allowing excess emissions during start up and shutdown only when we write new source review and prevention of significant deterioration decisions.
- **WAC 173-400-110 WAC New Source Review (NSR).** Issue: Sort out the “Source / Stationary Source” issue
- **WAC 173-400-117 WAC Special Protection Requirements for Federal Class I Areas.** Issue: Sort out the “Source / Stationary Source” issue
- **WAC 173-400-700** Review of major stationary sources of air pollution. Update changes in the PSD program that have changed since 2005. Ozone Implementation Rule (70 FR 71612, November 29, 2005)

General housekeeping

General housekeeping concerns include updates to keep the rule in synch with recent updates to related WAC, federal rules, and evaluating NSPS/NESHAP updates. We will also be seeking opportunities to clarify and streamline rule language.

- Streamline the descriptions of the permit processes. The intent is not to change the timelines, the review period, notification or hearing requirements, but to standardize the language for easy reference.
- Incorporate changes to implement new rule language in Chapter 173-460 WAC Controls for new sources of toxic air pollutants (delete references to WAC 173-460-160) and Chapter 173-441 WAC- Reporting of Emissions of Greenhouse Gases
- **WAC 173-400-040 WAC General standards for maximum emissions.** Concept: Modify application of RACT. Consider changing “sources” to “sources, facilities, emission units or categories of sources, facilities or emission units.
- **WAC 173-400-070(1) WAC Emission standards for certain source categories.** Issue: Define the term as “wigwam burners, silo burners, or functionally equivalent combustion devices.” There might be some confusion with functionally equivalent meaning pit burners and their kind.

- **WAC 173-400-091 WAC Voluntary limits on emissions.** Issue: Change source to “existing source or new source.” This is an effort to clarify who can apply for an -091 order.
- **WAC 173-400-100 to 104 WAC Source classifications.** Issue: We have two instances of T5 sources being exempted, do we need two instances? There is also a reference change needed.
- **WAC 173-400-104 WAC Registration fees.** Issue: Make it clear that the Carbon Dioxide Offset fee (Part I of Ch. 173-407 WAC), and fees associated with Green House Gas Mandatory Reporting Rule are separate from and in addition to registration fees.
- **WAC 173-400-105 WAC Records, monitoring, and reporting.** Concept: Clarify “source” language: Subsection (5) - Owners and operators of the following ~~categories of sources~~ emission units and stationary sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified. Subsection (5)(b): Concept: remove the reporting requirement from sulfur recovery units that turn the removed gas into sulfuric acid as opposed to gypsum
- **WAC 173-400-115 WAC Standards for performance of new sources, and WAC 173-400-075 Emissions standards for sources emitting hazardous air pollutants.** Issue: Update several section of the rule to include adoption by reference of the federal standards such as MACT and NSPS in addition to the PSD section. Reflect the changes made to the federal program since the last rule update.
- **WAC 173-400-171 WAC Public involvement.** Concept: Should newspaper publication always be required for projects that increase TAP emissions above the small quantity emission rate? Use of the AQP web page to give notice of applications and to solicit public comment.

Additional topics gleaned from comments on the 2007-2009 rule revision process on WAC 173-400-110

- Ch 173-400 Use of the word “construction” in Notice of Construction.
Concept: The term “construction” does not always describe the process by which a new source is established and, therefore, is misleading. The definition of construction should be revised to include “construction, installation or establishment”
- Several suggestions on revision of the rule language in WAC 173-400-110(4) and (5) including the following:
 - include demolition and asbestos renovation activities as exempt activities
 - Exempt diesel fuel operations from new source review
 - Expand the exemption for emergency generators to include the dedicated fuel tanks
 - Limit the monthly/yearly hours of operation for emergency generators

Objectives for rule making 2009

- Clarify the difference between the terms “emissions unit, new source, stationary source, and project.

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