# WAC 173-400, General Regulations for Air Pollution Sources
# Rule Advisory Committee
# Meeting #5
# Wednesday, October 28, 2009

**Location:** Dept of Ecology, Headquarters, Lacey WA
**Time:** 9:00 AM – 3:30 PM

**Advisory committee members:** Paul Mairose(SWCAA), Chuck Studer (SCCAA), Mark Buford (NWCAA) , Matt Cohen (Stoel Rives, LLP), Julie O'Shaughnessy(NWCAA), Annie Naismith (NWCAA), Mark Goodin (ORCAA), Eric Hansen (Environ International Corporation), Beth Hodgson (Spring Environmental), Steve Van Slyke (PSCAA), Tom Beam (Mission Support Alliance), Holly Bowers (Washington River Protection Solutions), Pete Hildebrandt (Alcoa/WSPA)

**Staff members:** Sarah Rees, Tom Todd, Rich Hibbard, Judy Schwieters, Linda Whitcher, Doug Hendrickson, Lynnette Haller, Lindsay Blain

**Observers:** Garry Kneedler (Central Washington Asphalt), Bruce Chattin (Washington Aggregates and Concrete)

**Meeting Objectives:**
Review and comment on concepts and draft rule language for:
WAC 173-400-035 Portable sources
WAC 173-400-036 Nonroad engines

**WAC 173-400-035 Portable sources**
Presenter: Tom Todd
Tom introduced the general concepts of the portable source rule.

**Question:** Is Ecology moving beyond delegation from the EPA to a SIP approved program? If so, what is the driver for this decision? Will the SIP approval include PM 2.5?

**Response:** Ecology is seeking SIP approval from the EPA. The request will include PM 2.5. We have found that the effort of getting our program SIP approved is less than we had anticipated. If we have a SIP approved program we will be able to serve permit applicants.

**Comment:** 400-035(1) is the only one that details the substantive requirements that a portable source must comply with. We need a definition for "portable source". If Ecology is not going to have temporary source and portable source regulations, how are we going to address asphalt plants? Is it reasonable to subject them to BACT?

**Response:** The Commercial/Industrial group has discussed this topic. We have decided that we need to make sources that portable sources meet national ambient air quality standards.

**Discussion: Regulating plants that move across jurisdictional borders.**
Garry Kneedler moved a plant from Washington to Idaho. It needed additional controls to meet Idaho's toxic thresholds.

Paul Mairose sees plants coming in from Oregon on a frequent basis. Plants coming into the state need to go through BACT review.
Eric Hansen: Modeling drives the permit decisions in Idaho. He supports the flexibility of BACT in contrast to modeling.

Beth Hodgson supports the adoption of cross-jurisdictional permit recognition. She supports Ecology's recognition of permits issued by local air authorities.

Mark Goodin suggests shortening the list of applicable sections (For example: 400-112, 113, 560) for relocation analysis. He supports a site-specific analysis each time a portable source moves. The analysis should list the specific concerns that would be subject to an expedited review for relocation. BACT and NSPS are not applicable.

Steve Van Slyke. His agency is looking at establishing permit by rule for rock crushers. It is difficult to tell on facilities that are decades old if the equipment that is operating is the same equipment that was permitted years ago.

Paul Mairose does not want to see "major source" portable permitting.

Rich Hibbard. We need to add WAC 173-460 to the list of WAC that portable sources to which sources are subject. On supporting argument is that this proposal allows better service and does not impact the NAAQS or damage the environment.

Beth Hodgson. Idaho permits actually list the equipment manufacturer and serial numbers. This addresses the equipment identification problem.

Matt Cohen. We need a NAAQS analysis at each new location, but not a new BACT analysis. These changes need to be incorporated into the rule language to get this proposal approved by the EPA.

Chuck Studer is concerned about degradation of the equipment over the years. He feels that a site-specific analysis is needed each time portable equipment relocates.

Mark Buford. NWCAA has a provision in its rule that allows those sources coming in their jurisdiction with a permit from another jurisdiction to operate for 90 days.

Mark Goodin suggests structuring the rule so that portable sources are an exemption from new source review only if the portable source already has a notice of construction. The portable source must be subject to NAAQS, NSPS and a site-specific analysis.

Paul Mairose. Portable sources that are relocating should be checked for a notice of construction. If the source has approval then it would need just a relocation review.

Julie O'Shaughnessy is concerned about the length of time that permits are valid. She for sees challenges with tracking equipment and use of the permit.

**General discussion on a 12-month location limitation for portable sources**
**Question:** Why is a source limited to 12 months when it goes through a full new source review? Mark Goodin allows renewals so that a portable source can stay longer that 12 months at one location. ORCAA doesn't require public comment when portable sources relocate.

Bruce Chattin. The nature of the businesses that use portable sources, the seasonality of the work, and the short length of the jobs makes it difficult for the permit process to satisfy all parameters. At times, the public notice could be longer than the job.

Paul Mairose. SWCAA requires that portable sources provide a ten day notification to the agency and adjacent property owners. They give sources the choice of being permitted as a new source, the permit would not have an expiration date, or to be permitted as a portable or Nonroad source with the commensurate 12-month time limit.

Garry Kneedler. The rule should clarify these points: What is a "portable" source? Is it defined by the length of time that the permit is valid – 90 days or 12 months? How are the permits transferred from one agency's jurisdiction to another? What does each agency need?

**Discussion: WAC 173-400-035(4) Change in conditions or modification.**

Beth Hodgson: The modification reviews should only address the modifications, not the whole permit.

Steve Van Slyke. The original agency that issued a permit should modify it each time it needs modification, regardless of where the equipment is operating.

Matt Cohen. Think of the site or source specific conditions as an overlay to the original permit.

Beth Hodgson. The agency with jurisdiction over a specific site should review a proposal and write additional conditions for the new location. Any change in equipment is subject to review under WAC 173-400-110.

**Discussion: WAC 173-400-036, Nonroad engines**

Tom Todd summarized Ecology's meeting last week. Ecology staff met with representatives of asphalt batch plants, concrete batch plants, and rock crushers in Spokane to discuss regulating nonroad engines. HE then began reviewing the draft rule.

Paul Mairose finds that the following exception is too broad: WAC 173-400-036 (1) (iii) (B) *In or on a piece of equipment that is intended to be propelled while performing its function.*
He gave an example of a self-propelled, tracked rock crusher that he thinks should be regulated. As the rule is currently written, these machines are exempt because they are propelled.

Matt Cohen. Comment on WAC 173-400-036(2) Permit by rule. (c) *Non road engines may not be located at a particular site for more than 12 consecutive months unless the unit is being stored and will be move to a new location before operation.*

It is likely that there will be push-back from EPA on this language. The EPA says that if an engine remains at a site for more than 12 months, it does not qualify for regulation as a Nonroad engine. When the EPA regulates the 12-month period it does not discount the time that an engine isn't used.

Matt Cohen. Comment on subsection (2)(d) *New non road engines may not be brought in to serve the same function as the original engine.*

This sentence is not needed as this restriction is contained in the definition. If we are going to include this concept, we should use the federal language rather than paraphrasing it.

Matt Cohen. Comment on subsection (3) *Written approval of non-road engines*. We should insert a sentence clarifying that Nonroad engines are exempt from new source review under WAC 173-400-110.

**Discussion about signature authority for nonroad engines.** The draft language uses the words, "Written approval". If the authorization were called an "order", it would be clear that a professional engineer is required to sign it.

**Discussion about the requirement for low sulfur fuel.** (2) (b) *Compression ignition non road engines used to support portable sources are required to use on-road diesel fuel only.*
Suggested edits:

- Use the words: "Meeting the on-road diesel specifications"
- Specify a maximum concentration of 15-ppm sulfur.

**Discussion of the applicability of (2) Permit by Rule. (a).** *A project consisting of up to four non road engines that are not exempt in subsection 1 above, may operate under the authority of this subsection without approval of the permitting authority. Projects involving more than four non road engines supporting a specific function must seek approval under subsection (3) below.*

- What is meant by “supporting a specific function”? Is a function something like lighting or pumping? Or is it intended to permit up to four engines at one site?
- Is there a limit on the engine size? Could each of the four engines have 1,500, 10,000, or 500,000 brake horse power?

**Discussion of (3) Written approval of non-road engines.**

- What conditions can be imposed on nonroad engines?
- Can we cross-reference to the NAAQS code sections or do we need to quote the language?
- (3) (d) sets up language to prevent a “notice and go” approval, which we is good. However, we can probably delete (3)(d) and get the same results by keeping (3)(e). *The permitting authority must issue the approval to operate a nonroad engine within 30 days after receiving a complete notice of intent to operate.*
- What specific items are required to make an application complete? Perhaps the list should be included in the rule.
- Hesitate to make the rule so complicated that it become unusable.