

Informal "Scoping" Phase
Draft
Comment Responsiveness Summary

WAC 173-400 and -460

New Source Review, Toxics

July 12, 1999

This is a compilation of comments by interested members of the public and regulatory communities submitted prior to filing a Preproposal Statement of Inquiry. This document manifests an optional "scoping" phase of this rulemaking. The mandatory public comment period will occur at a later stage after proposed rule revisions have been filed.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping Commenter(s): David Bray Id. #1
Page # -- Line # -- US-EPA-10
Section/Subsection # -- Comment Date: 950403 Comment # 1

Please state your comment here. (Make one comment at a time.)

Reply To Attn Of: AT-082

Enclosed please find EPA's comments and suggestions on the Ecology issue paper titled "De Minimis Values for New Source Review." While the paper accurately characterizes the issues regarding the establishment of "de minimis" values, it fails to recognize or discuss the applicable federal laws and regulations that establish the minimum elements of a State preconstruction review program needed for approval as part of the state implementation plan (SIP). I hope that you find our comments and suggestions useful as you develop any proposed revisions to the Ecology new source review rules.

If you have any questions on the EPA requirements, or would like to discuss any of our comments or suggestions further, please give me a call at (206) 553-4253.

Sincerely, David C. Bray, Permit Programs Manager

Enclosure

EPA COMMENTS ON ECOLOGY ISSUE PAPER
"DE MINIMIS VALUES FOR NEW SOURCE REVIEW"

The issue paper titled "De Minimis Values for New Source Review" accurately characterizes the issues regarding the establishment of "de minimis" values with one major exception. The paper fails to recognize or discuss the applicable federal law that establishes the minimum acceptable elements of a State preconstruction review program.

The Federal Clean Air Act sets forth the basic requirement for State preconstruction review programs in §110(a)(2)(C) which states that each implementation plan shall . . .

"(C) include a program to provide for the . . . regulation of the modified and construction of any stationary source within the areas covered by the plan as necessary to assure that the national ambient air quality standards are achieved, including a permit program as required by parts C and D;"

The Act goes on to define the term "stationary source" to mean "any building, structure, facility, or installation which emits or may emit any air pollutant." (§111(a)(3)). It defines the term "modification" to mean "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted." (§111(a)(4)).

EPA has promulgated regulations to implement and further clarify the requirements for preconstruction review programs pursuant to §110(a)(2)(C). These regulations, 40 CFR 51.160 through 51.164 and 40 CFR 52.01, establish the minimum requirements which must be met in order for a State preconstruction review program to be approved into the State implementation plan. There are three provisions in the EPA regulations that bear directly upon the issue of establishing de minimis levels in a State preconstruction review program.

* * *

In summary, EPA's current regulations for State preconstruction review programs clearly authorize States to establish "de minimis" levels for exempting new stationary sources and modifications to existing stationary sources from the need to obtain permits. Such "de minimis" levels need to be consistent with the fundamental requirement of the Act and EPA regulations that the program be adequate to ensure that the construction and modification of stationary sources does not interfere with attainment and maintenance of the national ambient air quality standards. Finally, such "de minimis" levels need to apply on a source-specific, rather than plant-

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wide, basis and need to be measured in terms of pounds per hour rather than tons per year.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The three particular comments follow.

Document: Scoping

Commenter(s): David Bray

Id. #2

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Section/Subsection # --

Comment Date: 950403

Comment # 2

Please state your comment here. (Make one comment at a time.)

The first of these provisions is 40 CFR 51.160(e) which states that the legally enforceable procedures must "identify types and sizes of facilities, buildings, structures, or installations which will be subject to review under this section. The plan must discuss the basis for determining which facilities will be subject to review." Inherent in this provision is the assumption that not all types and sizes of stationary sources need to be covered by a State preconstruction review program in order for it to fulfill the requirements of §110(a)(2)(C) and 40 CFR 51.160(a) that the program ensure that construction and modification of sources not interfere with attainment and maintenance of the ambient standards. Clearly, the principle of "de minimis" set forth in Alabama Power Company v. Costle 636 F.2d 323 (hereinafter the Alabama Power Decision) would allow a State to excluded from its preconstruction review program, new stationary sources and modifications to existing stationary sources which would be so small as to have no real possibility of interfering with attainment and maintenance of the ambient standards. This flexibility is provided by EPA's regulations for State preconstruction review programs.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Document: Scoping

Commenter(s): David Bray

Id. #3

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Comment Date: 950403

Comment # 3

Please state your comment here. (Make one comment at a time.)

The second provision is the definition of the term "stationary source" in 40 CFR 52.01(a). It is important in this context to recognize the difference between the definitions of a "stationary source" and a "major stationary source." A "stationary source" is defined as any [individual] building, structure, facility, or installation. A "major stationary source" is defined as the aggregate of all of the pollutant emitting activities located on one or more contiguous or adjacent properties. As such, the "significant" emission rates that EPA has established in the major source permitting programs (40 CFR 51.165 and 51.166) which apply on a plant-wide basis, are not appropriate to use on a source-specific basis in the State preconstruction review program. Furthermore, the "significant" emission rates which exempt plant-wide increases from the major new source review programs presuppose that such less-than-significant increases will be still be reviewed under the State preconstruction permitting program. As such, any "de minimis" levels established for use in a State preconstruction review program must be much lower levels than in EPA's major new source review programs and must apply to individual stationary sources rather than to entire plants.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping Commenter(s): David Bray Id. #4
Page # -- Line # -- US-EPA-10
Section/Subsection # -- Comment Date: 950403 Comment # 4

Please state your comment here. (Make one comment at a time.)

The third provision is the definition of the term "modification" in 40 CFR 52.01(d). As with the definitions of "stationary source" and "major stationary source" above, it is important to recognize the difference between the definitions of a "modification" and a "major modification." A "modification" is defined as any physical change or change in the method of operation a stationary source that results in an increase in the emission rate of any criteria pollutant. A "major modification" is defined as a physical change or change in the method of operation of a major stationary source that results in a significant net increase in actual emissions. A "significant net increase in actual emissions" for use in the major source permitting programs is defined as a plant-wide increase, measured in terms of tons per year, and aggregated over a five-year period contemporaneous with the physical change or change in the method of operation. This is completely different than for a modification to a stationary source which considers only if the particular physical change or change in the method of operation would increase the maximum emission rate of the stationary source. The averaging period for measuring the maximum emission rate can be no longer than the shortest averaging period for the national ambient air quality standards that the preconstruction review program is designed to protect and must be consistent with applicable test methods for measuring emissions. As such, any "de minimis" levels in a State preconstruction review program for modifications to stationary sources should be established in terms of pounds per hour.

Ecology Decision: Ecology Rationale:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Document: Scoping Commenter(s): Greg Ryan, Jerry Scheibner Id. #5
Page # -- Line # --
Section/Subsection # -- Comment Date: 951030 Comment # 1

Please state your comment here. (Make one comment at a time.)

October 30, 1995

To: Myron Saikewicz

Through: Grant Pfeifer & Pete Peterson

From: Greg Ryan and Jerry Scheibner

Subject: New Emission Factors and the Toxic Regs-Chapter 173-460 WAC

We are encountering greater and greater difficulty in reviewing and issuing Notice of Construction permits due to the interface of toxic emission factors, modelling, and the Acceptable Source Impact Levels in Chapter 173-460 Washington Administrative Code (WAC).

Our perception is that Chapter 173-460 WAC was developed with good intentions, but with very conservative ASILs. Chapter 173-460 WAC was first issued in September of 1991. We are not entirely sure, but we do not believe that much information was available at that time concerning toxic emission factors.

Since 1991, more toxic information has been obtained and published by various organizations including the EPA and California Air Resources Board. We do not know how accurate the information is, but, as engineers, we must use the information that is available.

Complicating the problem is that the tool we use to convert the emissions into an ambient concentration is a very conservative modelling program called TSCREEN. TSCREEN is a very good "go-no go" tool and we have used it many times with success. It is easy to use and if TSCREEN modelling passes the ASIL we are very comfortable to proceed knowing that the ASILs are met. The problem is when TSCREEN does not pass the ASIL, which is happening much more frequently. There is nothing else to do with TSCREEN and we do not have another tool readily available.

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Chapter 173-460 WAC gives several avenues to take when the ASILs are exceeded: either conduct a second tier analysis, or conduct more refined modelling.

In the regions, a majority of our Notice of Construction permitting is done with small industry. They do not have the resources to conduct the more refined modelling or a Second Tier analysis. The burden falls upon us and we end up spending an inordinate amount of time on these permits.

One would expect that large chemical plants, refineries, or big industrial plants could be pushing the toxic limits. Given the new founded toxic emission factors, in combination with TSCREEN and the ASILs, we are finding that even natural gas or oil fired boilers, hog fuel boilers, asphalt plants, chrome platers, etc, are over the ASILs. For example, it seems like we are wasting time "trying" to get a natural gas (which is supposedly a "clean" fuel) boiler to pass a toxic screen. If it were actually true that a mid sized boiler exceeded toxic limits then we need to change the limits because we do not think that the public would survive without using some type of fuel.

There are several options available that we need headquarters assistance to effect:

1. Revamp the ASILs
2. Provide a modelling tool that is more realistic
3. Provide better toxic emission factors

Would it be possible to develop a model such as ISC-ST for certain geographical areas of the state that are common to sources such as Moses Lake, Tri Cities, Yakima, Spokane, etc. that we could say are close enough in climate to reach our whole region?

Would it be possible to assign someone to put together a toxic emission factor book that we could rely upon to be accurate?

Are Chapter 173-460 WAC ASILs scheduled to be reviewed anytime soon?

These are just a few ideas. Any help that you could give would be appreciated.

Ecology Decision:

Ecology Rationale:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Document: Scoping

Commenter(s): Greg Ryan, Jerry Scheibner

Id. #6

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Section/Subsection # --

Comment Date: 951219

Comment # 1

Please state your comment here. (Make one comment at a time.)

December 19, 1995

To: Myron Saikewicz

Through: Grant Pfeifer & Pete Peterson

From: Greg Ryan and Jerry Scheibner

Subject: Update - New Emission Factors and the Toxic Regs-Chapter 173-460 WAC

On October 30, 1995, we sent a memo to you regarding the difficulty that we are encountering with permitting sources that emit toxic air pollutants. We had several suggestions regarding the problem, but no absolute answers.

Businesses that are installing boilers or back-up fuel systems, and other combustion sources are exceeding the acceptable source impact levels (ASILs) in Chapter 173-460 WAC.

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Just recently, CRO, ERO, and SCAPCA have issued or are in the process of issuing draft permits for boilers with curtailed number of hours of operation, using TSCREEN as a design tool, and with input from EPA AP-42 emission factors and Chapter 173-460 WAC. We are not sure that this is the correct approach to use, but it is the only one we have for now.

Is this the type of problem that your group should/could work on? Do you have the resources to pursue this problem? Have you had a chance to look at this problem? Is there any assistance that Greg Ryan or Jerry Scheibner can give?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was included in the scoping paper under the heading addressing tier-2.

Document: Scoping

Commenter(s): Greg Ryan, Jerry Scheibner

Id. #7

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Section/Subsection # --

Comment Date: 961108

Comment # 1

Please state your comment here. (Make one comment at a time.)

November 8, 1996

To: Joe Williams

Through: Grant Pfeifer

From: Greg Ryan and Jerry Scheibner

Subject: Problems with the Toxic Regulations-Chapter 173-460 (WAC)

Attached are two previous memos that we submitted for consideration. Please review the contents of these memos as the problems are not only still present, but are getting worse as more information is being collected.

Recently, ERO issued a preliminary determination for Pacific Northwest Sugar Company (PNSC), our largest Notice of Construction permit to date.

Several problems were encountered in attempting to address Chapter 173-460 WAC. It was found that they exceed the acceptable source impact levels for several toxic pollutants, even though they were operating a relatively clean fuel, low sulfur distillate fuel oil, as a back-up to a clean fuel, natural gas. A lot of resources were expended on addressing Chapter 173-460 by Ecology and PNSC to ensure the provisions of Chapter 173-460 WAC were met.

The same scenario is encountered in other proposals and by other permitting engineers.

We are not advocating that our toxic regulations are without merit, however, they need a serious review now that they have had five years of application. Please contact us for any information.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This rule writing provides the opportunity to participate in such serious review. This comment was included in the scoping paper under the heading addressing tier-2.

Document: Scoping

Commenter(s): Anthony Warfield

Id. #8

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Section/Subsection # --

Comment Date: 970822

Comment # 0

Please state your comment here. (Make one comment at a time.)

Attached is a short scoping paper I have written for possible changes to Chapter 173-460 WAC. The initial purpose of the paper is to spark discussion among AQP staff on elements of 460 we would like to change.

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The following are suggestions for change to 173-460 that I received while scoping out the clarity project. I can probably track the source (person) if you need/want more information.

Fix conflicts in 173-460 and 173-490

-460-040 – NSR differs from –400-110

-460 excludes gas stations from modeling – that doesn't make sense

-460 needs to be reworked

-460 unreasonable toxics limits are set; small businesses can't test for toxicity and can't afford to have someone else do it

-460-080 unreasonable specs in 150 & 160 – no number listed with pollutants

173-460 toxics rule, needs to be revised. Thresholds need to be revisited

One of the unclear items in our regs is the convoluted pathway where gasoline stations are exempt from WAC 173-460, but their toxic emissions are covered under WAC 173-491 (with legislative authority)

Ecology Decision: Ecology Rationale:

- Concur
- Partial Concurrence
- Deferred
- None of the Above

Document: Scoping Commenter(s): Oliver Wang Id. #11
Page # -- Line # -- Ecology, Kennewick
Section/Subsection # -- Comment Date: 970829 Comment # 0

Please state your comment here. (Make one comment at a time.)

WAC 173-460-030 (2) (e) states that "Process vents subject to 40 CFR Parts 264 and 265, Subpart AA are exempt from the requirements of this chapter." Although Subpart AA only regulates organic content (VOC), WAC 173-460-030 (2) (e) implies complete exemption to the requirements of 173-460.

A Hanford contractor recently requested exemption of a RCRA facility/activity from WAC 173-460 requirements because of Subpart AA applications. The facility mainly releases ammonia (inorganic). Please add this issue to the agenda for discussion during the 9/18 Air Permit Engineers Workshop. Our Ecology lawyers (Mary Sue Wilson and Tanya Barnett) sided with the contractors for the last few weeks. And they suggested that language in 173-460-030 (2) (e) be modified if there are technical concerns.

Ecology Decision: Ecology Rationale:

- Concur
- Partial Concurrence
- Deferred
- None of the Above

We (Air Quality Program) will consider a revision to Chapter 173-460 WAC. What do you want it to say? Please be specific. Tony Warfield is planning on opening this rule in the near future.

WAC 173-460-030(2)(e) says: (e) Process vents subject to 40 C.F.R. Parts 264 and 265, Subpart AA are exempt from the requirements of this chapter.

How would you change this language?

Document: Scoping Commenter(s): Steven Skurla Id. #12
Page # -- Line # -- Wash. Dept. Ecology
Section/Subsection # -- Comment Date: 970908 Comment # 0

Please state your comment here. (Make one comment at a time.)

Although I have only limited knowledge of the requirements of WAC 173-340, I would like to suggest the following language. "For process vents subject 40 C.F.R. Parts 264-265, Subpart AA, the organics regulated under Subpart AA are exempt from the requirements of this chapter."

I will be interested in seeing how we can deal with this issue. Thanks for requesting our input-

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Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology is willing to accept suggestions for exemptions.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #16

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980529

Comment # 1

Please state your comment here. (Make one comment at a time.)

1. Application of the rule to Research & Development

Understandably the rule appears to be written with relatively well defined and constant industrial processes in mind. Application of the rule to R&D is inherently difficult because of the need for change in the course of research. This becomes burdensome for a research organization such as Battelle and the Pacific Northwest National Laboratory with many projects in progress at any time, projects being completed and starting, and using a wide and changing inventory of chemicals. At the same time past assessments indicate that emissions are generally low relative to the Acceptable Source Impact Levels and NSR threshold levels.

While the above comments focus on our organization, it's reasonable to expect the issue also affects the R&D operations of other businesses, and the state research and teaching colleges and universities. We would like to have an exemption considered for R&D, or the addition of provisions that recognize the special nature of R&D. This would be consistent with the Federal CAA Title III Section 112(c)(7) recognition of the need for special consideration for R&D.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The issue was added to the issue paper.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #17

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980529

Comment # 2

Please state your comment here. (Make one comment at a time.)

2. Federal enforceability

It appears they are state-only requirements since they are not implementing, or necessary to meet, federal requirements. The federally enforceability of approval orders issued pursuant to the rule are needs to be clarified.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The issue was added to the issue paper.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #18

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980529

Comment # 3

Please state your comment here. (Make one comment at a time.)

3. Thresholds/SQERs

The current regulation has SQERs for Class A chemicals with ASILs as low as 0.001ug/m3, but not for those

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with lower ASILs. We would like to see thresholds established for all chemicals with ASILs, as well as for the Class A and Class B chemicals with no ASILs.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Each chemical with an ASIL should have its own SQER. Because these SQERs would be based on ASILs, chemicals without ASILs can not have SQERs.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #19

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980529

Comment # 4

Please state your comment here. (Make one comment at a time.)

4. Receptor location

The current definition of "ASIL" [-020(2)] by default places the receptor at the facility fence line. This appears inconsistent with the 24-hour averaging time for Class B ASILs. We would like the rule revision to address the receptor location. Logically the 24-hour ASIL should only apply at the nearest location that would likely be occupied for 24 hours or more, probably the nearest residence. If closer locations are occupied for shorter periods, the ASIL applicable to that location should be proportionately higher (e.g. for an eight-hour shift worker, 3 x the 24-hour ASIL).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Creating an 8hr ASIL would complicate the tier-1 analysis. Receptor location can be addressed in tier-2 under the existing rule. As a screening tool, the ASIL reflects a protective approach of potential exposure.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #20

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980529

Comment # 5

Please state your comment here. (Make one comment at a time.)

5. Potential to emit or actual emissions

The rule [-050(3)] seems clear that actual or conservative estimates of emissions can be used to quantify emission. However, WAC 173-400-110(5)(a)(i) potentially confuses that point. We would like the revised rule making to address this issue.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The nature of the potential confusion is not stated with sufficient clarity to facilitate a response.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #21

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Dept. Ecology NWRO

Section/Subsection # 1

Comment Date: 980529

Comment # 1

Please state your comment here. (Make one comment at a time.)

1. You should bring that one up with the Air Permit Engineers. Our next meeting is on June 18th, here at NWRO.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Issue Paper 9805 Commenter(s): Alan Butler Id. #22

Page # -- Line # -- Dept. Ecology NWRO

Section/Subsection # 2 Comment Date: 980529 Comment # 2

Please state your comment here. (Make one comment at a time.)

2. I would like to see a lot more control technology requirements for specific industry types. PSAPCA has a pretty good model, I believe, but then they can revise their rules a lot quicker than we can. Control technology requirements should only apply to facilities constructed before some future date, say January 1, 2005. This would allow for the increasing complexity in revising rules.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper. The sunset provision is interesting.

Document: Issue Paper 9805 Commenter(s): Alan Butler Id. #23

Page # -- Line # -- Dept. Ecology NWRO

Section/Subsection # 3 Comment Date: 980529 Comment # 3

Please state your comment here. (Make one comment at a time.)

3. We'd have to watch out here. MACT is a set-in-concrete "floor," whereas BACT is a gradually rising "ceiling." MACT is set by the EPA for applicable sources, typically the medium and large sources for a given category. The "mom-and-pop" operations may be exempted from MACT requirements. If we established MACT as BACT for everybody, we'd blow away the small guys and after a few years we'd have outmoded controls.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was included in the scoping paper under the heading addressing BACT and MACT.

Document: Issue Paper 9805 Commenter(s): Alan Butler Id. #24

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Section/Subsection # 4 Comment Date: 980529 Comment # 4

Please state your comment here. (Make one comment at a time.)

4. We'd need careful consideration and concurrence by the toxicologists on this one. Sure, it would be a lot less hassle to permit little guys simply because they fit a template, but I'd hate to see it result in some sort of toxic health catastrophe on "Sixty Minutes" after I'm retired. If the toxicologists say "No problem-o" on a source category basis, within reasonable qualifying parameters, I would be all for it. If a source falls outside of the qualifying parameters, an impact analysis would be prudent, in order to assure public safety.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment is represented in the scoping paper.

Document: Issue Paper 9805 Commenter(s): Alan Butler Id. #25

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Section/Subsection # 5,6,7, & 8 Comment Date: 980529 Comment # 5

Please state your comment here. (Make one comment at a time.)

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5, 6, 7 and 8. I do not have a clue. If a number shouldn't be there, let's get rid of it. If a number should be there, let's include it. If we find new data on some of the TAPs, we should update their corresponding ASILs. I'd recommend that you talk to Maggie Corbin of PSAPCA [(206) 689-4057], Leslie Carpenter, and Audrey O'Brien for info on how the ASILs were developed.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Various ASIL issues are addressed in the scoping paper. They are not resolved. Maggie Corbin is involved. Leslie Carpenter and Audrey O'Brien are no longer available.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #26

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Dept. Ecology NWRO

Section/Subsection # 9 & 10

Comment Date: 980529

Comment # 6

Please state your comment here. (Make one comment at a time.)

9 and 10. I like the SQER table. It's simple, it's clean, it works.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

SQERs are useful. However, the dispersion modeling parameters are generic.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #27

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Dept. Ecology NWRO

Section/Subsection # 11

Comment Date: 980529

Comment # 7

Please state your comment here. (Make one comment at a time.)

11. Sure, why not? If it's simpler and would make life easier and would not reduce public safety, why not do it?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

A unified ASIL table is being developed.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #28

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Dept. Ecology NWRO

Section/Subsection # 12

Comment Date: 980529

Comment # 8

Please state your comment here. (Make one comment at a time.)

12. We should find out the rationale for inclusion or exemption of specific industry types in WAC 173-460-030(1)(i). before we make any changes.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

That information may not be available. Industry types were not excluded; they were simply not included. Accountability can be better achieved if exemptions are specifically listed.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #29

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Dept. Ecology NWRO

Section/Subsection # 13

Comment Date: 980529

Comment # 9

Please state your comment here. (Make one comment at a time.)

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13. This could be an improvement.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This seems to be the consensus.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #30

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Dept. Ecology NWRO

Section/Subsection # 16

Comment Date: 980529

Comment # 10

Please state your comment here. (Make one comment at a time.)

16. Keep both. That way we're covered no matter what.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology should not use the federal term "HAP" because the HAP list is just a part of our list.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #31

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Dept. Ecology NWRO

Section/Subsection # 17

Comment Date: 980529

Comment # 11

Please state your comment here. (Make one comment at a time.)

17. Absolutely! Tier 2 should be streamlined to the max, but it should still insure public safety. We may even be able to figure out how to implement the existing requirements without a major hassle. What would we do if we had a source that exceeded ASILs, and the Governor himself wanted to see the thing permitted ASAP? We wouldn't circumvent the rules, but everybody would see that things happened with the least amount of hassle. That's the way we should do everything!

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Specific recommendations for streamlining tier-2, without threatening human health or the environment, are welcomed.

Document: Issue Paper 9805

Commenter(s): Alan Butler

Id. #32

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Dept. Ecology NWRO

Section/Subsection # 18

Comment Date: 980529

Comment # 12

Please state your comment here. (Make one comment at a time.)

18. Hey, that stuff already is perfectly clear!

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was elaborated in the 980619 draft of the scoping paper.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #33

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Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980601

Comment # 1

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

1) What program was the attachment referred to below prepared in? And can you send it within the body of your email message? When I tried to open the attachment, it was gibberish.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology did so.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #34

Page # -- Line # --

Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980601

Comment # 2

Please state your comment here. (Make one comment at a time.)

2) What is the status of the NSP committee? Were you able to find public interest appointees? Are you considering the survey/questionnaire process I suggested, like Mark Hicks in the Water Quality section used? I would love it if you would use this process rather than a committee process.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology is not forming a formal advisory committee. All members of the public have equal opportunity to participate in the rule making.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #35

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Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980601

Comment # 3

Please state your comment here. (Make one comment at a time.)

3) Are the ASILs still TLV-adult and cancer-based? Has there been any move since I last looked at them many years ago to address i) health impacts associated with prenatal and childhood exposures, and ii) the full range of noncancer health impacts, including for example, hormone disruption?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

It does not appear that the Dept. Of Ecology will have the resources to evaluate individual ASILs during this rule making.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #36

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Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980601

Comment # 4

Please state your comment here. (Make one comment at a time.)

4) Will Ecology consider zero as ASILs for Persistent Bioaccumulative Toxics (PBTs) (or Bioaccumulative Chemicals of Concern-BCCs- to use water section's language) or otherwise accomplish phaseouts for these substances through the rulemaking?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

It does not appear that the Dept. Of Ecology will have the resources to evaluate individual ASILs during this rule making.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping Commenter(s): Carol Dansereau Id. #37
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980601 Comment # 5

Please state your comment here. (Make one comment at a time.)

5) What is Ecology doing with respect to toxics from existing sources? Can you brief me on health-based standards for toxics, particularly BCCs, as they relate to existing sources? Is the agency planning any rulemakings soon on this?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

These matters are outside of the scope of this rule making.

Document: Scoping Commenter(s): Carol Dansereau Id. #38
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980601 Comment # 6

Please state your comment here. (Make one comment at a time.)

6) My final question is what is Ecology seeing as the key issues in the NSP rulemaking. But I bet that's what's in the document I can't open.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The document was resent.

Document: Issue Paper 9805 Commenter(s): Jennifer DeMay Id. #39
Page # -- Line # -- Olympic Air Pollution Control Authority
Section/Subsection # 3 Comment Date: 980602 Comment # 1

Please state your comment here. (Make one comment at a time.)

1. editorial comment: from Control Requirements #3.

Reads "Whether to tie together the requirements BACT and MACT requirements." Should read "Whether to tie together the BACT and MACT requirements."

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The correction was made.

Document: Issue Paper 9805 Commenter(s): Jennifer DeMay Id. #40
Page # -- Line # -- Olympic Air Pollution Control Authority
Section/Subsection # 4 Comment Date: 980602 Comment # 2

Please state your comment here. (Make one comment at a time.)

2. Control Requirements #4

I think ambient impact analysis should still be required after T-BACT is applied. The purpose is to make sure there is no risk to human health. Adding a new source or modifying a source that increases toxic emissions may still have a health impact even if BACT is applied. Doing an ambient impact analysis and comparing the value to the ASIL lets us make sure that the increased risk is insignificant. This depends not only on the increased level of emissions, but also the location of the source. This comes into play in Tier 2 I think, where

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

the increase is added to the current ambient level of that pollutant to determine whether or not the health impact is significant. T-BACT or MACT does not necessarily mean that the level at which they control toxics makes the toxic emissions insignificant, it is just the available control technology. The ambient impact analysis may show that it is better to not make the modification or build the new source, even if T-BACT or MACT is installed.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was included in the scoping paper under the heading addressing categorical exemptions.

Document: Issue Paper 9805

Commenter(s): Jennifer DeMay

Id. #41

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Olympic Air Pollution Control Authority

Section/Subsection # 7

Comment Date: 980602

Comment # 3

Please state your comment here. (Make one comment at a time.)

3. Updating ASILs #7

This may take more resources then we currently have

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This is addressed in the scoping paper.

Document: Issue Paper 9805

Commenter(s): Jennifer DeMay

Id. #42

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Olympic Air Pollution Control Authority

Section/Subsection # 10

Comment Date: 980602

Comment # 4

Please state your comment here. (Make one comment at a time.)

4. De minimus #10

SQER and de minimus are NOT the same. The SQER is meant to be equivalent to the ASIL and sources beneath the values are still required to do BACT. De minimus is equivalent to 10% of the ASIL and sources beneath these are not required to do BACT.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The SQER and ASIL table should be consolidated, but not combined.

Document: Issue Paper 9805

Commenter(s): Jennifer DeMay

Id. #43

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Olympic Air Pollution Control Authority

Section/Subsection # 16

Comment Date: 980602

Comment # 5

Please state your comment here. (Make one comment at a time.)

5. Editorial #16

This would be a good change. However, I currently like that the Federal list is called "HAP" and the state list is "TAP". Technically, the terms are equivalent. But the HAP list is only 188 pollutants while the TAP list is over 600 (and includes all the HAPs). It just makes it easier to clarify which list you are talking about, but is not necessary to keep. Maybe somewhere it should be noted that the state list includes the Federal list, plus other pollutants that the state thinks are of concern.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology should not use the federal term "HAP" because the HAP list is just a part of our list. The pollutant/contaminant issue was elaborated, and remains in the scoping paper.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #44

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980603

Comment # 1

Please state your comment here. (Make one comment at a time.)

In WAC 173-400-100(1)(d), recommend that the phrase "..other than Subpart M (National Emissions for Asbestos) or a Maximum. . . ." be extended to read "..other than Subpart H (National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities) and Subpart M (National Emissions for Asbestos) or a Maximum. . . ."

Our concern is that registration and new source review for radionuclide emission sources from DOE facilities is also regulated by the Department of Health under WAC 246-247-010 and -060. This appears to be an unnecessary and unintended duplication. In addition, new toxic air pollutant sources that would otherwise be exempt from new source review under -460-040, appear to be required to file an NOC [see -460-040(1)(a) and -46-030(1)(b)(ii)] only because the new source emits radionuclides subject to Subpart H.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The comment was incorporated into the scoping paper as an example.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #45

Page # -- Line # --

Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980603

Comment # 2

Please state your comment here. (Make one comment at a time.)

WAC 173-460 appears to be written with relatively well-defined and constant industrial processes in mind. Application of the NSR portions of the rule to R&D is inherently difficult because of the need for frequent changes in the course of a research project. This becomes burdensome for research organizations such as Battelle, PNNL and universities with many projects in progress at any time, projects being completed and starting, and using a wide and changing inventory of chemicals. At the same time, past assessments indicate that emissions are generally low relative to the Acceptable Source Impact Levels and NSR threshold levels.

We recommend exemptions for R&D institutions that recognize the special nature of R&D.

Such exemptions would improve the rule by reducing the frustrations, cost burdens and barriers to the productive R&D essential to the economy and environment of the state and country. Such exemptions would be consistent with the Federal CAA Title III Section 112 (c) (7) recognition of the need for special consideration for R&D at the national level as well.

In WAC 173-460-030(2) add "(f) New toxic air pollutant sources of research and development institutions, and educational institutions, whose total toxic air pollutant emissions do not exceed the small quantity emission rate tables in WAC 173-460-8-080." Or the same sentence could be added to -040(2) as an item (d).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to issue paper. However, the proposed language would not result in the desired outcome.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping Commenter(s): Roger Woodruff Id. #46

Page # -- Line # -- Battelle, Pacific NW Laboratory

Section/Subsection # -- Comment Date: 980603 Comment # 3

Please state your comment here. (Make one comment at a time.)

The current SQER table, or a variation, expanded to include de minimus levels for all toxic air pollutants with ASILs, is recommended for setting de minimus levels. De minimus levels are justifiable as there is inherently some level below which the costs of regulation for both industry and the public out-weigh the benefits. The existing, but incomplete, graded scale approach of the SQER table, where the de minimus increases with the ASIL is technically more defensible than a single value for all chemicals.

The recommendation would improve the rule by establishing de minimus levels for all regulated toxics and thereby not require expenditure of resources for mitigating emissions that are below levels of any likely health impact.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Incorporating de minimis remains a fundamental purpose of this rule making.

Document: Scoping Commenter(s): Roger Woodruff Id. #47

Page # -- Line # -- Battelle, Pacific NW Laboratory

Section/Subsection # -- Comment Date: 980603 Comment # 4

Please state your comment here. (Make one comment at a time.)

The current definition of "ASIL" [-020(2)] by default places the receptor at the facility fence line. This appears inconsistent with the 24-hour averaging time for Class B ASILs. It is recommended the rule be revised to address the receptor location. Logically the 24-hour ASIL should apply at the nearest location that would be occupied for 24 hours or more, probably the nearest residence. If closer locations are occupied for shorter periods, the ASIL applicable to that location should be proportionately higher (e.g. for an eight-hour shift worker, 3 x the 24-hour ASIL).

The recommendation would clarify the rule and provide a technical basis for addressing the exposure duration of receptors. As currently written and interpretable, the rule causes confusion and would tend to increase compliance costs for both industry and the agency.

Recommend the definition of ASIL in [-020(2)] be revised to:

"...means a concentration of a toxic air pollutant at a receptor location in the outdoor atmosphere that is used to evaluate the air quality impacts of a single source. The receptor location for ASILs with 24-hour averaging times is the nearest location with the potential for 24 hour occupancy by a single individual. If closer location can be occupied for shorter periods, the ASIL applicable to that location is proportionately higher (e.g. for an eight-hour non-employee shift worker, 3 x the 24-hour ASIL). The receptor location for ASILs with an annual average is the nearest boundary of a residential zone."

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the issue paper. However, it has limited merit. Such site-specific considerations are currently addressed in a tier-2 analysis.

Document: Scoping Commenter(s): Roger Woodruff Id. #48

Page # -- Line # -- Battelle, Pacific NW Laboratory

Section/Subsection # -- Comment Date: 980603 Comment # 5

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

The 460 rule [-050(3)] seems clear that actual or conservative estimates of emissions be used to quantify emissions. However, WAC 173-400-110(5)(a)(i) potentially confuses that point.

It is recommended that any revision to the 400 or 460 language make this point more clear.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The reviewer does not understand the nature of the potential confusion.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #49

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980603

Comment # 6

Please state your comment here. (Make one comment at a time.)

The federally enforceability of approval orders issued pursuant to the 460 rule needs to be clarified. It appears they are state-only requirements and do not implement, nor are they necessary to meet, federal requirements.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the issue paper.

Document: Scoping

Commenter(s): Roger Woodruff

Id. #50

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Battelle, Pacific NW Laboratory

Section/Subsection # --

Comment Date: 980603

Comment # 7

Please state your comment here. (Make one comment at a time.)

Recommend that words or phrases in 400 and 460 that have unique definitions in the definitions sections of these regulations be identified in some way in the body of the regulations (e.g. by bolding). This way the reader will know the word or phrase has a unique definition. Otherwise a reader can easily assume the words or phrases have only the common (dictionary) definitions and may miss the meaning and intent of the regulation. And when these same words or phrases are intended to have only the common definitions, the lack of bolding (e.g.) will make that clear.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This is a good idea. The Code Reviser's Office has a fixed format that is said to allow for this sort of bolding. The Dept. of Ecology has its own "unofficial" format used for in-house publication of its rules. This format does not highlight defined words. Contact the Ecology Rules Unit for more information.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #51

Page # -- Line # --

Section/Subsection # 2

Comment Date: 980603

Comment # 1

Please state your comment here. (Make one comment at a time.)

2. Generic BACT requirements would certainly make permitting easier for the engineers and more understandable for the businesses. Generic BACT does not necessarily mean that the ASILs would be met, however. It would have to be stated in the regulation that ambient impacts would not have to be assessed (health and toxicologist's decision), otherwise the business would not understand that even though they meet the control requirements, they still could not get a permit because the ASILs have been exceeded.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was included in the issue paper. It states an alternative.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #52

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Section/Subsection # 4

Comment Date: 980603

Comment # 2

Please state your comment here. (Make one comment at a time.)

4. Note: ERO is presently in the process of permitting an incinerator. We are applying the present MACT requirements. Still, there were instances of toxics exceeding the ASILs unless we curtailed the number of hours of operation. Therefore, meeting MACT does not necessarily mean that the ASIL requirements in Chapter 173-460 WAC are met.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Thanks for the example. MACT will probably not be addressed in this rule making.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #53

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Section/Subsection # 5

Comment Date: 980603

Comment # 3

Please state your comment here. (Make one comment at a time.)

5. Either give the compounds an ASIL or take them off of the table or state that an ambient assessment does not have to be made for compounds without an ASIL (this is the preferable option).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was included in the issue paper. It states the range of alternatives.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #54

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Section/Subsection # 7

Comment Date: 980603

Comment # 4

Please state your comment here. (Make one comment at a time.)

7. It appears that there may be an added level of conservatism built into the ASILs that is not based upon science. Some of the ASILs appear to be unachievably low. For example, if an ambient analysis (TSCREEN) was conducted on a passing car or truck, they would probably fail the ASIL. Is this the intent of the regulation?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Vehicles are not stationary sources subject to NSR.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #55

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Section/Subsection # 9

Comment Date: 980603

Comment # 5

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

9. We need a de minimus list for the toxics. Since many sources emit toxics as well as criteria pollutants, the de minimus list as it exists now is very limited in application.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Toxics de minimis is a core issue of this rule making.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #56

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Section/Subsection # 10

Comment Date: 980603

Comment # 6

Please state your comment here. (Make one comment at a time.)

10. The use of SQER tables is a possibility. Keep in mind that there is not SQER for many type A toxics, which will be needed.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

A SQER would be set for each TAP with an ASIL.

Document: Issue Paper 9805

Commenter(s): Greg Ryan

Id. #57

Page # -- Line # --

Section/Subsection # 17

Comment Date: 980603

Comment # 7

Please state your comment here. (Make one comment at a time.)

17. I do not think that the present tier II methodology is possible for small sources (based upon time, money, and business expertise). Even for large sources, it is very cumbersome, expensive, and time consuming. I still feel that it should be maintained as a last resort, but if improvements are made to ASILs, screening techniques, and emission factors, then we would only use tier II when it is actually needed.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This is so.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #58

Page # -- Line # --

Spokane County Air Pollution Control Authority

Section/Subsection # 1

Comment Date: 980603

Comment # 1

Please state your comment here. (Make one comment at a time.)

1. I think the "generic BACT" for chrome plating and solvent metal cleaners should be updated to make them at least as stringent as the MACT standards. Currently, the requirements for these categories given in WAC 173-460 are essentially meaningless because they are less stringent than the federal MACT standards.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This was added to the scoping paper as a comment.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Issue Paper 9805 Commenter(s): April Miller Id. #59
Page # -- Line # -- Spokane County Air Pollution Control Authority
Section/Subsection # 1 Comment Date: 980603 Comment # 2

Please state your comment here. (Make one comment at a time.)

I think the "generic BACT" for petroleum dry cleaners and abrasive blasting should also be updated to reflect the current BACT for these categories. BACT, especially for petroleum dry cleaners, has changed substantially since the last time WAC 173-460 was revised.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Added to issue paper as a comment.

Document: Issue Paper 9805 Commenter(s): April Miller Id. #60
Page # -- Line # -- Spokane County Air Pollution Control Authority
Section/Subsection # 1 Comment Date: 980603 Comment # 3

Please state your comment here. (Make one comment at a time.)

One specific comment on one of the BACT abrasive blasting requirements given in WAC 173-460-060(6)(d), it would be helpful if the definition of "sand" could be further delineated. The reason for this request is because we have recently encountered a company who is trying to market recycled glass, which is mainly comprised of "amorphous silica" as an abrasive blasting medium. Is amorphous silica of the same toxicity as "crystalline silica?" Which is meant by the term "sand" in WAC 173-460?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Added to issue paper as a comment.

Crystalline silica is the main constituent of relatively much less toxic sand, according to Sax's Dangerous Properties of Industrial Materials, 8th edition. Silica flour is finely ground crystalline silica. Silica flour is not "amorphous silica," though it is sometimes marketed as such. Fused silica is made up of spherical submicroscopic particles under 0.1 micron. I have seen "crushed glass" marketed as being angular, as opposed to spherical. I do not know how crushed glass bottles should be classified, though it would not seem to be as "amorphous silica" or "fused silica."

Document: Issue Paper 9805 Commenter(s): April Miller Id. #61
Page # -- Line # -- Spokane County Air Pollution Control Authority
Section/Subsection # 4 Comment Date: 980603 Comment # 4

Please state your comment here. (Make one comment at a time.)

4. I don't think MACT is as protective as BACT for TAPs. Also, I don't think sources subject to MACT standards should be categorically exempt from all ambient impact analysis because a source that meets MACT may not be able to meet all of the ASILs. An example of this is a Notice of Construction that I am currently reviewing for a kitchen cabinet manufacturer called Huntwood Industries in Spokane. The facility is currently in compliance with the wood finisher MACT standard emission limit because all of their coatings have VHAP contents less than 1.0 lb VHAP/lb solid. However, the facility uses a tremendous amount of sealer per year (>40,000 gallons per year). This sealer contains only a small percentage of formaldehyde. However, when the emissions are totaled for the facility, they emit more than 500 lbs per year of formaldehyde. When these emissions were modeled, the modeled impact was 5 times over the ASIL, based on modeling by TSCREEN and ISC3. Therefore, Huntwood is going to have to switch to a coating with almost no formaldehyde to meet the ASIL. Based on my experiences with Huntwood Industries, it appears that we need the ambient impact analysis capabilities for some facilities to adequately protect human health.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

However, I do think some sources should be categorically exempted from ambient impact analysis. I agree with exempting dry cleaning operations because the operation is not directly vented, so it is difficult to accurately model the impacts. I also agree with exempting chrome platers because the emissions are so small that it is difficult to model such small impacts. Also, the ASIL for chromium is so small that it is difficult to use a screening type of model to assure compliance because screening models have a high factor of safety built into them.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This example and comment were included in the scoping paper.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #62

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Spokane County Air Pollution Control Authority

Section/Subsection # 5

Comment Date: 980603

Comment # 5

Please state your comment here. (Make one comment at a time.)

Yes, I think the compounds in the table that don't have assigned ASILs should be addressed. Currently, if there is no ASIL for a compound, we (permit writers) essentially ignore them. These compounds should either be assigned an ASIL or removed from WAC 173-460.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

There is a third alternative of ratifying your current practice. Note that if a toxic is not listed, then it would not meet the definition of "TAP."

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #63

Page # -- Line # --

Spokane County Air Pollution Control Authority

Section/Subsection # 9

Comment Date: 980603

Comment # 6

Please state your comment here. (Make one comment at a time.)

I think there should be de minimis levels adopted for TAPs.

Currently, there is a big discrepancy in WAC 173-460 on de minimis levels. WAC 173-460-040(2)(b) and (c) say that if a new source is a minor process change or the result of minor changes in raw material composition, and total toxic air pollutant emissions do not exceed the emission rates specified in small quantity emission rate tables, a NOC is not required. This means that "minor changes" could increase emissions by 20 tons/year and not have any NSR requirements.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.
It is possible that WAC 173-460-040(2)(b) could be eliminated as part of incorporating de minimis into the rule.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #64

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Spokane County Air Pollution Control Authority

Section/Subsection # 10

Comment Date: 980603

Comment # 7

Please state your comment here. (Make one comment at a time.)

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

I don't think it makes sense to use the SQER as the de minimis levels for NSR for minor process changes, but then have no de minimis levels for new toxic air pollutant sources. I think there should be 1 set of de minimis values for new and modified TAP sources. The de minimis values should not be the SQER because this value is too large for many TAPs. I don't think a process should be allowed to emit 20 tons / year of a TAP and not go through NSR. On the other hand, there needs to be some kind of de minimis levels for NSR... otherwise, someone who puts in a new source that emits 5 lbs/yr of acetone would have to go through NSR.

Using the SQER for de minimis values for process changes is also inconsistent with the de minimis levels given in WAC 173-400 because many of the TAPs are also VOCs. The VOC NSR de minimis value is 2.0 tons/year. Therefore, TAPs that are also VOCs would not trigger NSR under WAC 173-460 until 20 tons/year. However, under WAC 173-400, they would trigger NSR at 2 tons/year.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper. SQER has been eliminated as an option for de minimis. Separate de minimis levels would be set for each TAP. The criteria VOC de minimis level could be built into the each TAP de minimis level. Provision would also have to be made so that the sum of multiple TAP VOCs do not exceed 2 tons.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #65

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Spokane County Air Pollution Control Authority

Section/Subsection # 11

Comment Date: 980603

Comment # 8

Please state your comment here. (Make one comment at a time.)

I think all of the different parameters (de minimis values, SQER values, and ASILs) should be contained in one place (i.e. table) to eliminate all of the cross referencing. Currently, many applicants cannot understand the way WAC 173-460 is set up with the ASILs in one place and the SQER in another place.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This would make the rule easier to use.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #66

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Spokane County Air Pollution Control Authority

Section/Subsection # 11

Comment Date: 980603

Comment # 9

Please state your comment here. (Make one comment at a time.)

I don't think the SQER table should be eliminated. If a new source emits 20 tons/yr of a TAP, I think it should go through NSR. However, if the emissions are below the SQER, my understanding is the modeled impact will definitely be below the ASIL, so modeling is not required. We (permit writers) should not model a new source unless it is warranted.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The SQER may be retained, but consolidated on a chemical-specific basis into the ASIL table. However, the utility of the SQER is limited because the dispersion modeling parameters are generic.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #67

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Spokane County Air Pollution Control Authority

Section/Subsection # 13

Comment Date: 980603

Comment # 10

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

Yes, I think all new source review information should be in its own chapter. This would eliminate a lot of confusion. This would also eliminate time consuming rule revisions (i.e. Ecology would only have to make NSR changes / revisions in one place).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This would be complicated, but should be done to simplify the rules.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #68

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Spokane County Air Pollution Control Authority

Section/Subsection # 14

Comment Date: 980603

Comment # 11

Please state your comment here. (Make one comment at a time.)

Yes, I think the applicability criteria of WAC 173-460 should be clarified and consolidated.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The applicability criteria should be clarified and simplified.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #69

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Spokane County Air Pollution Control Authority

Section/Subsection # 15

Comment Date: 980603

Comment # 12

Please state your comment here. (Make one comment at a time.)

Yes, I think the exemptions from WAC 173-460 should be clarified and consolidated.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The exemptions should be clarified and simplified.

Document: Issue Paper 9805

Commenter(s): April Miller

Id. #70

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Spokane County Air Pollution Control Authority

Section/Subsection # 16

Comment Date: 980603

Comment # 13

Please state your comment here. (Make one comment at a time.)

I think the term "pollutant:" should be used to be consistent with the federal rules.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Washington CAA uses the term "contaminant." More discussion is needed.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Issue Paper 9805 Commenter(s): April Miller Id. #71
Page # -- Line # -- Spokane County Air Pollution Control Authority
Section/Subsection # 18 Comment Date: 980603 Comment # 14

Please state your comment here. (Make one comment at a time.)

Yes, I think the NSR requirements for existing sources and modifications should be clarified. This area has a lot of confusion.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

What is the problem, and how could it be fixed?

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #72
Page # -- Line # -- SCAPCA
Section/Subsection # 2 Comment Date: 980603 Comment # 1

Please state your comment here. (Make one comment at a time.)

Could we include wood stripping facilities in this list and establish requirements for generic BACT? A generic BACT tier II analysis was done for wood stripping facilities by Ecology for SCAPCA. Almost every wood stripping facility will require a Tier II analysis because of their extensive use of Methylene Chloride.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper as a comment.

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #73
Page # -- Line # -- SCAPCA
Section/Subsection # 2 Comment Date: 980603 Comment # 2

Please state your comment here. (Make one comment at a time.)

Many welding operations use welding rods that have Chromium VI in them. It may be hard to get these facilities to pass modeling with TSCREEN. A de-minimis usage of rod may be a way to handle them w/ a generic BACT for those facilities above the de-minimis. I have a spreadsheet that calculates the toxic emissions from welding operations depending on the type of welding rod used. The spreadsheet is based on the emission factors given in AP-42.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper as a comment.

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #74
Page # -- Line # -- SCAPCA
Section/Subsection # 3 Comment Date: 980603 Comment # 3

Please state your comment here. (Make one comment at a time.)

BACT does not equal MACT. MACT is for many existing emission units considerably less than BACT. Even for new sources, MACT can be less than BACT or TBACT. We probably should include the requirements of 112(g) here, because permit writers may be required to do interim MACT determinations which should be

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

equivalent to BACT or TBACT. In this case, and I expect only in this case MACT = BACT = TBACT.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper as a comment. The consensus is to not address MACT in this rule making.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #75

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SCAPCA

Section/Subsection # 4

Comment Date: 980603

Comment # 4

Please state your comment here. (Make one comment at a time.)

Remember MACT is only for HAPs, not state toxics. Sources may have insignificant impacts concerning HAPs and not for state TAPs. I don't think any source should be exempt from modeling unless a Tier II analysis has been performed on a representative case study for that category. Just because a source meets MACT, does not mean that is TBACT or BACT or that it poses an insignificant risk. Risk should not be a political decision, rather it should be determined by analysis. It may make a permit writer's life easier to assume that facilities meeting MACT should be categorically exempt from ambient impact analysis, but does it serve the public's interest, who we are required to protect?

>Yes, a generic ambient impact analysis should be a condition to adopting "generic BACT".

>Yes the authority should reserve the right to require ambient impact analysis at its discretion? Not all situations are generic. Remember BACT is a case-by-case determination and the authority should not be denied the ability to make case-by-case determinations.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper as a comment.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #76

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SCAPCA

Section/Subsection # 5 & 6

Comment Date: 980603

Comment # 5

Please state your comment here. (Make one comment at a time.)

Those toxics without ASILs should be given an ASIL or eliminated from the list. Permit writers generally ignore a toxic when it doesn't have an ASIL. Emission calculations can be performed for these TAPs, however, the results are informational only. No other conclusion can be derived.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Note that if a toxic is not listed, then it would not meet the definition of "TAP."

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #77

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SCAPCA

Section/Subsection # 7

Comment Date: 980603

Comment # 6

Please state your comment here. (Make one comment at a time.)

The more stringent ASILs should be verified. They are usually the trouble makers.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

It does not appear that the Dept. Of Ecology will have the resources to evaluate individual ASILs during this rule making.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #78

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SCAPCA

Section/Subsection # 8

Comment Date: 980603

Comment # 7

Please state your comment here. (Make one comment at a time.)

I don't believe that most of the authorities are inclined to administer the 112(r) rules. Why muddy the waters by adding these to the list?. Those authorities that wish to administer 112(r) can do so under 112(r). Besides 112(r) has nothing to do with new source review. It concerns existing facilities and their requirement to develop accidental risk prevention programs.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The proposed issue did not suggest that air authorities administer the 112(r) program.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #79

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SCAPCA

Section/Subsection # 9

Comment Date: 980603

Comment # 8

Please state your comment here. (Make one comment at a time.)

I think a de minimis level is appropriate. I don't believe that the small quantity emission rate(SQER) should be the de minimis since a source exceeding this value must be modeled. A percentage of the small quantity emission rate, i.e. 25% or 50% of the SQER, may be appropriate since it gives some leeway for company growth before a potential impact occurs. Remember sources with toxics usually have multiple toxics to investigate. Calculations are done on all of the toxics to determine if modeling is required for any one toxic. One toxic that exceeds the de minimis would require NSR. Basically it appears that a permit writer is going to have to calculate emissions for each toxic to determine which toxic it is that he didn't have to calculate. In most cases, one of the toxics will require that NSR be done. In a few cases, the source will have constituents that are not significantly toxic and will not exceed the de minimis. I expect it will be rare.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Toxics de minimus is a core issue of this rule making. De minimis would not eliminate the utility of SQER. The utility of SQER is limited by the generic nature of the parameters used in the dispersion model.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #80

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SCAPCA

Section/Subsection # 10

Comment Date: 980603

Comment # 9

Please state your comment here. (Make one comment at a time.)

The purpose of the SQER is determine if modeling is required. The purpose of a de minimis is to determine if new source review is required. I do not believe that they are necessarily or should be the same. Using a reasonable percentage of the SQER as the de minimis is acceptable.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This is well stated. Another option is making de minimis a percentage of the ASIL, and basing the SQER on that. Note also that ASILs are exposure limits, and SQERs are emission limits.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #81

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SCAPCA

Section/Subsection # 11

Comment Date: 980603

Comment # 10

Please state your comment here. (Make one comment at a time.)

A single unified table which included the type (A or B) might be acceptable; however, the separation of the type A & B toxics is also useful. I think Table I is informational in nature only and has no real function in new source review. It could be incorporated into Tables II & III.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology is considering a unified table that preserves all of these points of information.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #82

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SCAPCA

Section/Subsection # 12

Comment Date: 980603

Comment # 11

Please state your comment here. (Make one comment at a time.)

I think that NSR for TAPS should be required within all industrial classifications. A toxic is a toxic and can be a potential health risk in source classifications that are not listed as well as those that are listed. If you want to exempt certain industries or emission units based on control technology, then do so based on a risk analysis performed for that industry not politics. If stakeholders want to perform the risk analysis and have it reviewed by Ecology to exempt them from the reg., then I don't see a problem. If the stakeholders just want to get out of regulation with out proof of no public risk, then I don't think an exemption request should be entertained. Basically they should be required to put their money where their mouth is.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper. The rule writer is considering changing the industrial classification provision to include all those not excepted, instead of including only those listed.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #83

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SCAPCA

Section/Subsection # 13

Comment Date: 980603

Comment # 12

Please state your comment here. (Make one comment at a time.)

If Ecology takes the New Source Review, PSD, and NSPS sections out of 400 and puts them into 460 and makes 460 a General New Source Review Regulation, then I would support the move.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The rule writer plans on consolidating all these sections into a new chapter. However, using chapter 460 would present numbering problems.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #84
Page # -- Line # -- SCAPCA
Section/Subsection # 14 Comment Date: 980603 Comment # 13

Please state your comment here. (Make one comment at a time.)

clarification & consolidation of applicability criteria of 460 - Yes

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The applicability criteria should be clarified and simplified.

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #85
Page # -- Line # -- SCAPCA
Section/Subsection # 15 Comment Date: 980603 Comment # 14

Please state your comment here. (Make one comment at a time.)

clarification & consolidation of exemptions from 460 - Yes

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The exemptions should be clarified and simplified.

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #86
Page # -- Line # -- SCAPCA
Section/Subsection # 16 Comment Date: 980603 Comment # 15

Please state your comment here. (Make one comment at a time.)

pollutant is preferable to contaminant. A contaminant could be a dust particle in a substrate. TAP does not equal HAP. There should be a distinction between the two. A TAP is one of 600 some Washington state hazardous air pollutants. A HAP is one of 167 Federal hazardous air pollutants.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The Dept. of Ecology should not use the federal term "HAP" because the HAP list is just a part of our list.

Document: Issue Paper 9805 Commenter(s): Chuck Studer Id. #87
Page # -- Line # -- SCAPCA
Section/Subsection # 17 Comment Date: 980603 Comment # 16

Please state your comment here. (Make one comment at a time.)

Most small sources (? 95% of SCAPCA's air pollution sources) can not afford to have a Tier II performed. From my understanding, there has never been a project denied after having to go through a Tier II. If this is the case, then it appears that added cost was required of each proponent to prove that their process would not create a health risk with no apparent benefit to anyone except the Department of Ecology and possibly environmental consultants that did the risk assessment. This method appears to be classifying the source as "guilty until proven innocent". I'm not sure how to fix the process. Investigation of problem SQERs and asils and verification of their values may go a long way toward fixing the problem. A committee of permit writers, Ecology staff, environmental consultants and industry representatives may be able to develop a more equitable method.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper. Note that there have been marginal projects modified or canceled in the face of tier-2.

Document: Issue Paper 9805

Commenter(s): Chuck Studer

Id. #88

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SCAPCA

Section/Subsection # 18

Comment Date: 980603

Comment # 17

Please state your comment here. (Make one comment at a time.)

Does replacement of an old cyclone with a new cyclone constitute a substantial alteration or a similar parts replacement? Does "substantially alter" mean the same thing as "modification"?

"substantial alteration" needs to be clearly defined.

"Similar parts replacement" needs to be clearly defined.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

Document: Scoping

Commenter(s): Kirk Peterson

Id. #89

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Flour Daniel Hanford

Section/Subsection # --

Comment Date: 980605

Comment # 1

Please state your comment here. (Make one comment at a time.)

WAC 173-60-030 Requirements, Applicability and Exemptions.

We would like to clarify (i.e. either expand the chapter applicability exemptions and/or refine the intent of paragraph (1)(b)(ii)) beyond what is currently under Ecology's scope in paragraph (1)(b)(i) for a change from standard industrial classifications (SIC) system groupings to NAICFS system for industry classifications. This isn't the applicability criteria that burdens us as an industry as much as paragraph (1)(b)(ii) regarding an applicability link back to the WAC 173-400-110 in the clause, "any source or source category listed in WAC 173-400-100." For our facilities evaluating NSR applicability, one of the most common criteria that draws us in as an applicable requirement, are those mixed waste sources that contribute a de minimus TAP constituent (not specifically identified as an applicable source category) AND a radionuclide component. Therefore, a NESHAP association makes this source activity applicable as shown below:

* WAC 173-460-030(1)(b)(ii) Chapter Applicability?? (Yes, because of WAC 173-400-100(1)(d). That is, the radionuclide particulate portion of the mixed waste stream being regulated under the 40 CFR 61, Subpart H NESHAP).

An example like above, draws us into NSR for insignificant taps emissions due to the presence of the radionuclide (NESHAP) constituent, which already undergoes NSR for the agency with authority over radionuclides (i.e.. WDOH and/or EPA).

Many of the NSR permitting we process under WAC 173-460-040 section do not currently qualify for an exemption under paragraph (2) of this section, but are well below or approaching the ASIL levels. We strongly support Ecology's proposal for clarification in the area of de minimus levels [e.g., Ecology expansion of the term "minor process change" under WAC 173-460-040(2)(b) AND utilizing a de minimus category/threshold process similar to WAC 173-400-110(4) and (5) would be of great benefit in clarifying the intent of this exemption].

Another section we would like additional clarification on is WAC 173-460-080 "Demonstrating Ambient Impact Compliance." Under this section, the area of difficulty is the SQER table concerning ASIL values of less than

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

0.001 for the Class A TAPs (i.e., no SQER is assigned for these constituents).

Summary

* We would like to see an expansion of the exemptions listed under WAC 173-460-030 for Chapter applicability and can provide you with suggested categories at the next opportunity.

* We agreed with your proposal to develop de minimus levels and making them tie closely both with the source category exemption either as a replacement of the SQER in conjunction with the SQER to provide a better cross tie allowance for those things that are really insignificant emissions.

* We would propose a revision to the Class A SQER table to include a corresponding value for those constituents with an ASIL value for those less than 0.001

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The three points are addressed in the scoping paper.

Document: WAC

Commenter(s): Scott Inloes

Id. #90

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SW Air Pollution Control Authority

Section/Subsection # 173-460

Comment Date: 980608

Comment # 1

Please state your comment here. (Make one comment at a time.)

The Southwest Air Pollution Control Authority (SWAPCA) believes that substantial changes in WAC 173-460, "Controls for New Sources of Toxic Air Pollutants" should be made to streamline the New Source Review process. SWAPCA requires quantification of all toxic emissions for all approvals except those listed in 173-460-030(c) and 173-460-060. Other implementing agencies have various polices and regulations that reduce the burden to industry and the agency. These policies should be incorporated into the regulation so they are applied consistently state wide.

In general, the BACT evaluation performed under the general regulations WAC 173-400 have resulted in permits that do not require additional controls to meet WAC 173-460, the toxic regulation. The only cases SWAPCA has achieved emissions controls and reductions through WAC 173-460 were for the following types of facilities/emissions:

- A) Facilities with emissions of acids and bases
- B) Gasoline station remediations (benzene)
- C) Hazardous waste cleanups (toxic chlorinated compounds)

In addition, WAC 173-460 was enacted to reduce the toxic risk (impact) for new stationary sources. The regulation does not address toxic emissions from mobile or area sources that account for the majority of the toxic emissions in the state. The stationary sources account for less than 25% of the toxic emissions in the state. This regulation should consider including existing sources of toxic emission to be regulated by this rule or other regulations.

SWAPCA would like to submit various suggestions for the revision of WAC 173-460, to account for these points. These suggestions are summarized in Attachment A. SWAPCA continues to support this regulation to reduce risk to the public near facilities which have toxic emissions.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The comment that chapter 460 only leads to additional controls for three source types is interesting. Reducing regulatory burdon should not be considered without risk to human health and the environment. The scope of this rulemaking does not include existing stationary sources or mobile sources.

Document: WAC

Commenter(s): Scott Inloes

Id. #91

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SW Air Pollution Control Authority

Section/Subsection # 173-460

Comment Date: 980608

Comment # 2

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

A) Update all references.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The rule writer update all references of which he is made aware.

Document: WAC

Commenter(s): Scott Inloes

Id. #92

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SW Air Pollution Control Authority

Section/Subsection # 173-460-020

Comment Date: 980608

Comment # 3

Please state your comment here. (Make one comment at a time.)

- B) 1) Include definition for "asphalt fumes" and test methods to be used to measure asphalt fumes.
2) Class A and B definition need to be updated.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

These two issues were added to the issue paper.

Document: WAC

Commenter(s): Scott Inloes

Id. #93

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SW Air Pollution Control Authority

Section/Subsection # 173-460-030

Comment Date: 980608

Comment # 4

Please state your comment here. (Make one comment at a time.)

C) The exemption list contained in 173-460-030(c) and 173-460-060 should be expanded. This would reduce the burden on the facilities and agencies within the limits of T-BACT. A second option would be for implementing agencies to have the flexibility to establish an exemption list by regulation or policy. The exempt list for 173-460 should include specific requirements as follows:

- 1) Autobody spray booths less than 10 tpy
- 2) Boilers fueled on natural gas or low sulfur fuel (less than 0.05%)
- 3) Asphalt plants
- 4) Gas or oil heaters less than 2 mmBtu/hr
- 5) Rock crushers
- 6) Wastewater treatment plants - Chloroform only
- 7) Landfills - Hydrogen sulfide
- 8) Small paint booths less than 5 tpy of VOCs
- 9) Consider references to MACT and NESHAPS standards (Note: These are not risk based standards)
- 10) Gasoline storage and dispensing operations
- 11) Graphic arts systems
- 12) Can and paper coating operations
- 13) Polyester/vinylester/gelcoat/resin operations
- 14) Ethylene oxide sterilizers
- 15) Coating and ink manufacturing

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

These proposed exeption were added to the issue paper for consideration by all participants.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: WAC Commenter(s): Scott Inloes Id. #94
Page # -- Line # -- SW Air Pollution Control Authority
Section/Subsection # 173-460-030 Comment Date: 980608 Comment # 5

Please state your comment here. (Make one comment at a time.)

D) Eliminate the exemption for tanks under 173-460-030(2)(a) because all active tanks will vent directly or indirectly. The MACT and NESHAPS standards apply to tanks larger than 10,000 gallons (MACT standards for chromium and vapor degreaser applies to smaller tanks).

Ecology Decision: Ecology Rationale:
 Concur Elimination of this exemption was added to the issue paper for consideration by all participants.
 Partial Concurrence
 Deferred
 None of the Above

Document: WAC Commenter(s): Scott Inloes Id. #95
Page # -- Line # -- SW Air Pollution Control Authority
Section/Subsection # 173-460-050 Comment Date: 980608 Comment # 6

Please state your comment here. (Make one comment at a time.)

E) Need to review the quantification requirements. The amount of information regarding toxic emissions has increase substantially in the last 10 years.

Ecology Decision: Ecology Rationale:
 Concur Dept. of Ecology needs more information to respond to this comment. What is the new information, and how would -050 be changed?
 Partial Concurrence
 Deferred
 None of the Above

Document: WAC Commenter(s): Scott Inloes Id. #96
Page # -- Line # -- SW Air Pollution Control Authority
Section/Subsection # 173-460-060 Comment Date: 980608 Comment # 7

Please state your comment here. (Make one comment at a time.)

F) T-BACT should also contain a requirement to evaluate increases in stack height to achieve a lower impact. The exhaust stack height should be raised to the maximum reasonable height possible prior to any health impact review.

Ecology Decision: Ecology Rationale:
 Concur Stack height is addressed in WAC 173-400-200. Dept of Ecology questions whether increasing stack height should be mandatory. It is presently an option.
 Partial Concurrence
 Deferred
 None of the Above

Document: WAC Commenter(s): Scott Inloes Id. #97
Page # -- Line # -- SW Air Pollution Control Authority
Section/Subsection # 173-460-060 Comment Date: 980608 Comment # 8

Please state your comment here. (Make one comment at a time.)

G) If an existing source of emissions is identified whose impact is greater than the impact from the proposed project, offsets could be used to reduce the overall increase in ambient impact below the ASIL based on an annual average. A regulatory order would be issued for the reductions in toxic emissions. No health impact assessment or review would then be required.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This proposal has merit. Emissions trading is addressed in WAC 173-400-120, -131, and -136. Opening those sections would be subject of another rule making. Could this proposal for emission offsets be considered within the scope of this rule making.

Document: WAC

Commenter(s): Scott Inloes

Id. #98

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SW Air Pollution Control Authority

Section/Subsection # 173-460-090

Comment Date: 980608

Comment # 9

Please state your comment here. (Make one comment at a time.)

H) Establish an approval process for chemicals without an ASIL or do not list the chemicals at all or list separately but exclude them from Tier II process.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This subject is addressed by the scoping paper. A special approval process for individual chemicals would be burdensome. Whether chemicals without ASILs should be expressly excluded from tier 1 or 2 is a good question.

Document: WAC

Commenter(s): Scott Inloes

Id. #99

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SW Air Pollution Control Authority

Section/Subsection # 173-460-090

Comment Date: 980608

Comment # 10

Please state your comment here. (Make one comment at a time.)

I) Move 173-460-090(3)(ii) to 173-460-100

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This makes good editorial sense.

Document: WAC

Commenter(s): Scott Inloes

Id. #100

Page # -- Line # --

SW Air Pollution Control Authority

Section/Subsection # 173-460-090

Comment Date: 980608

Comment # 11

Please state your comment here. (Make one comment at a time.)

J) Presently, the Tier II process only addresses the cancer risk from Class A chemicals. Class B chemicals do not have a cancer risk. Are Class B chemicals exempt from 173-460-090(3)(a) and why do we have an ASIL for Class B chemicals?

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the scoping paper. Tier -2 should consider both toxicity and carcinogenicity.

Document: WAC

Commenter(s): Scott Inloes

Id. #101

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SW Air Pollution Control Authority

Section/Subsection # 173-460-090

Comment Date: 980608

Comment # 12

Please state your comment here. (Make one comment at a time.)

K) SWAPCA believes that the second tier analysis should be modified as follows so as to trim the process and protect the public health for outdoor exposure:

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

1) The approval criteria (second tier) should be based on an increased cancer or health risk of less than one in one hundred thousand from an increase in air emissions from the facility for all pollutants that are emitted above ASIL (including reductions). This should also include reduction in risk from control of existing sources. The approval should not exclude additional risk from indoor sources or other processes not part of the review.

2) SWAPCA does not have authority (WAC 173-460) to regulate toxic emissions from existing sources or indoor air quality. The quantification of the risk from these activities is of limited value.

3) The second tier analyses that SWAPCA has been involved with has not resulted in any additional controls. Other options should be considered to reduce risk.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

1) WAC 173-460-090(4)(a)(iv) calls for a "health impact assessment" that includes the contribution of the proposed source toward total daily intake for TAPs that exceed the ASIL. This would seem to include indoor sources and processes outside of the NOC. The rule does specify what to do with the resulting analysis.
2) Id.
3) Permit engineers can, and do consider other risk-reduction strategies between tier I and tier II. These include pollution prevention, operational limitations, and increasing stack height. Emissions trading has been proposed as another option. Such measures could be explicitly provided for in the rule.

Document: WAC

Commenter(s): Scott Inloes

Id. #102

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SW Air Pollution Control Authority

Section/Subsection # 173-460-090

Comment Date: 980608

Comment # 13

Please state your comment here. (Make one comment at a time.)

L) Replace 173-460-090(3)(iii through vi) with: Characterization of pathways and daily intake for the increase in toxic air pollutants that exceed the ASIL as a result of this modification. Characterization of risk for the increase in toxic air pollutants that exceed the ASIL as a result of this modification. The increase in cancer risk for all toxic air pollutants that exceed the ASIL as a result of this modification.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This recommendation was added to the scoping paper.

Document: WAC

Commenter(s): Scott Inloes

Id. #103

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SW Air Pollution Control Authority

Section/Subsection # 173-460-100

Comment Date: 980608

Comment # 14

Please state your comment here. (Make one comment at a time.)

M) Need to define all known available and reasonable technology per 173-460-100(2)(a) and (b).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the scoping paper for consideration by all participants.

Document: WAC

Commenter(s): Scott Inloes

Id. #104

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SW Air Pollution Control Authority

Section/Subsection # 173-460-100

Comment Date: 980608

Comment # 15

Please state your comment here. (Make one comment at a time.)

N) Should 173-460-100(4) be added to 173-460-090?

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the scoping paper for consideration by all participants.

Document: WAC

Commenter(s): Scott Inloes

Id. #105

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SW Air Pollution Control Authority

Section/Subsection # 173-460-120

Comment Date: 980608

Comment # 16

Please state your comment here. (Make one comment at a time.)

O) I assume that this revision to WAC 173-460 will meet the requirements of 173-460-120 and include results of all the second tier analyses evaluations that have been done to date.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Dept. of Ecology may not have the resources to do this.

Document: WAC

Commenter(s): Scott Inloes

Id. #106

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SW Air Pollution Control Authority

Section/Subsection # 173-460-150/160

Comment Date: 980608

Comment # 17

Please state your comment here. (Make one comment at a time.)

P) Combine the tables and label similar to Puget Sound Air Pollution Control Agency's Regulation III for clarity.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

PSAPCA's table is clear. Our table would try to include more columns, for SQER, etc.

Document: WAC

Commenter(s): Scott Inloes

Id. #107

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SW Air Pollution Control Authority

Section/Subsection # 173-460-150/160

Comment Date: 980608

Comment # 18

Please state your comment here. (Make one comment at a time.)

Q) Drop all chemicals with a Acceptable Source Impact Level (ASIL) of greater than 250 µg/m³ (24 hour average) except for the hazardous air pollutants (188 listed). BACT for criteria pollutants should reduce emissions to below the 250 µg/m³ (24 hour average). The National Ambient Air Quality Standards for the pollutants are as follows: carbon monoxide 10,000 µg/m³ (8 hour average), nitrogen dioxide 100 µg/m³ (annual average), sulfur dioxide 365 µg/m³ (24 hour average), total particulate matter 260 µg/m³ (24 hour average).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the scoping paper for consideration by all participants.

Document: WAC

Commenter(s): Scott Inloes

Id. #108

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SW Air Pollution Control Authority

Section/Subsection # 173-460-150/160

Comment Date: 980608

Comment # 19

Please state your comment here. (Make one comment at a time.)

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

R) Drop all double entries in WAC 173-460-150 and 160.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This would occur under the proposal to consolidate the tables.

Document: WAC

Commenter(s): Scott Inloes

Id. #109

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SW Air Pollution Control Authority

Section/Subsection # 173-460-150/160

Comment Date: 980608

Comment # 20

Please state your comment here. (Make one comment at a time.)

S) The toxic list contains groups of chemicals instead of specific compounds, for example, arsenic compounds and glycol ethers. These groups of chemicals should be broken down into the specific compounds whenever possible for example: arsenic pentoxide, and arsenic trisulfide.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue was added to the scoping paper for consideration by all participants.

Document: WAC

Commenter(s): Scott Inloes

Id. #110

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SW Air Pollution Control Authority

Section/Subsection # 173-460-150/160

Comment Date: 980608

Comment # 21

Please state your comment here. (Make one comment at a time.)

T) It is unreasonable to set limits or standards for chemicals or compounds without having an available test method to confirm compliance. The list should be modified to include a reference test method.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Ecology can not, and should not, mandate a test method for every listed chemical. The reviewer trusts that a method for each chemical exists in the scientific community.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #112

Page # -- Line # --

Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980618

Comment # 1

Please state your comment here. (Make one comment at a time.)

First, we strongly urge the agency to revise the New Source ASILs and make other changes to new source rules in order to protect people's health and the health of other species. Currently, the standards do not adequately address

- i) the full range of health and environmental impacts associated with each pollutants,
- ii) special exposures and vulnerabilities of children and the offspring of other species,
- iii) the extent to which people and other species are already exposed to given pollutants,
- iv) the fact of exposures to other types of pollutants concurrently which may lead to synergistic effects as well as additivity.
- v) persistence and bioaccumulative characteristics of many pollutants
- vi) the ability of some air pollutants to disrupt the hormone system and how this renders tiny concentrations a problem. Hormones do what they need to do in minute concentrations.
- vii) and many other factors.

Basically, ASILs are currently not based on good science. They fail to protect health and the environment and

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must be revised.

As an example of one major change in ASILs that should be adopted, consider those air pollutants which do persist and bioaccumulate, such as dioxins. These substances should have an ASIL of zero. It is not acceptable to allow continued release of substances (particularly at new sources) which by definition build up in living creatures over time, up the food chain and across generations. The air section at Ecology should coordinate with the water section using the draft zero discharge language that Mark Hicks had drafted as a starting point for discussion. That language needs to be tighter per our comments to Mark, but it is a starting point. For more on Bioaccumulative Chemicals of Concern, why zero is the proper ASIL, and legal authorities for this action, see the memorandum we sent to Director Fitzsimmons recently. It is posted on our website at www.accessone.com/~watoxics Please, incorporate that memorandum into the public record.

With respect to your question as to whether there are toxic substances missing in the ASIL table, to be honest, I have not had the time to review. I would suspect that there are. The department should conduct an assessment using, for example, the excellent preliminary charts that Cheryl Niemi prepared as part of the Toxics Workgroup for the BC-Washington Compact. Cheryl obtained and joined lists of persistent pollutants from various sources such as regulatory lists and lists of contaminants of concern showing up in Puget Sound. Ecology should do a cross comparison to ensure that we are addressing all that must be addressed.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Reviewing ASILs is addressed in the scoping paper. Proposals to revise particular ASILs would have to be supported by advocacy and data. This rule writing effort may not have the resources to do more than administratively update the ASILs.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #113

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Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980618

Comment # 2

Please state your comment here. (Make one comment at a time.)

Second, the department needs to establish standards for existing sources which phase out releases of BCCs, and set protective standards for all pollutants, including zero in many cases.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Reviewing ASILs is addressed in the scoping paper. Proposals to revise particular ASILs would have to be supported by advocacy and data. This rule writing effort may not have the resources to do more than administratively update the ASILs.

Document: Scoping

Commenter(s): Carol Dansereau

Id. #114

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Wash. Toxics Coalition

Section/Subsection # --

Comment Date: 980618

Comment # 3

Please state your comment here. (Make one comment at a time.)

Third, it is completely inappropriate for the agency to declare BACT to be equivalent to MACT. The analyses behind the two differ greatly. And political and geographical circumstances are such that federally developed MACT are not necessarily protective of health and the environment in our state. This state can and should adopt standards that are much more protective than the MACT standards EPA has issued.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The consensus is to not link BACT and MACT, and to keep MACT outside of the scope of this rule making.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping Commenter(s): Carol Dansereau Id. #115
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980618 Comment # 4

Please state your comment here. (Make one comment at a time.)

Fourth, we oppose categorical exemptions from ambient impact analyses for sources with 060 control technologies. Ambient analyses serve to ensure that protection is adequate and to force technology as necessary.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Further categorical exemptions for ambient analysis should only be allowed after stringent programmatic risk assessments, and with appropriate provisos.

Document: Scoping Commenter(s): Carol Dansereau Id. #116
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980618 Comment # 5

Please state your comment here. (Make one comment at a time.)

Fifth, the source of an air pollutant makes little difference to those suffering injury due to that pollutant. The agency must identify and address TAPs for all sources.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The scoping paper proposes amending the source list to be encompassing.

Document: Scoping Commenter(s): Carol Dansereau Id. #117
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980618 Comment # 6

Please state your comment here. (Make one comment at a time.)

Sixth, given the existence of good pollution prevention alternatives for dry cleaners, the agency should explore revising BACT for these major pollution sources. We suspect the same is true for chromic acid plating and solvent metal cleaners and urge an updating based on pollution prevention developments in recent years. Ecology standards should be based on preventing pollutants as well as on protecting the most sensitive populations.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The rule writer would welcome specific recommendations.

Document: Scoping Commenter(s): Carol Dansereau Id. #118
Page # -- Line # -- Wash. Toxics Coalition
Section/Subsection # -- Comment Date: 980618 Comment # 7

Please state your comment here. (Make one comment at a time.)

Finally, we are glad that the department will solicit and consider comments via email and mail rather than convene a time-consuming "stakeholder" meeting process. Members of public interest organizations and of the general public do not have the time or money to spend days traveling to and sitting at such meetings. We do want to know what Ecology is hearing from industry and others on these standards, however. Will you be

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updating those who comment periodically with a list of who else has commented? Please, do so. And will we be able to obtain copies of those comments easily by email without having to go through Public Disclosure law hoops and delays? Please, say your answer is Yes. In the interest of democratic discussion, we urge you to establish a system that maximizes public access to others' comments so we may respond.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The rule writer has developed a NSR web page to facilitate public involvement in the manner suggested.

Document: WAC

Commenter(s): Dan Johnson

Id. #119

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Dept. Ecology AQP

Section/Subsection # WAC 173-400-110(1)

Comment Date: 980630

Comment # 1

Please state your comment here. (Make one comment at a time.)

173-400-110(1) appears to usurp local air authority if the local chooses not to submit its rules for inclusion into the SIP. For example, our rule may exempt activities or units that the local rule doesn't, yet our rule says that our rule applies, so the exemption should apply. One caution: there was a reason the offending language was added in the 11th hour. It was meant to address a concern that I think EPA had. It was Dan C's language, and Tony's rule so one of them should remember the specifics.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue is addressed in the scoping paper.

Document: WAC

Commenter(s): Alan Butler

Id. #120

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Dept. Ecology NWRO

Section/Subsection # WAC 173-400-020
(2)(b)

Comment Date: 980729

Comment # 1

Please state your comment here. (Make one comment at a time.)

(2)(b) or not (2)(b) that is the question.

Actually, there may be aspects of "automobiles, trucks, and aircraft" that local air authorities should enforce. We should consider and the the specific aspects (exhaust emissions when traveling on public roadways or when conducting normal operations such as conveying passengers or cargo while operating under FAA rules.) that we need to keep under state control, and leave all the other nuisance aspects to the local air authorities.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #121

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # WAC 173-460

Comment Date: 980730

Comment # 1

Please state your comment here. (Make one comment at a time.)

Cover Letter

The Puget Sound Air Pollution Control Agency (PSAPCA) is supportive of Ecology's efforts to review and

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

improve Chapter 173-460 WAC the toxics new source review process and we would like to offer our technical assistance on reviewing any proposed revisions to the regulation. In general, PSAPCA considers the procedures in Chapter 173-460 WAC for reviewing toxic air pollutants to be very beneficial to our permitting process.

We have found that the toxics screening provides an easy tool for demonstrating that emissions from a new or modified source will not result in an unacceptable risk. The alternative of performing a complete risk analysis on each pollutant and each application would be unduly burdensome without resulting in any environmental benefit for most sources, and the screening analysis allows us to avoid this onerous process. As with the PSD program, the second tier analysis provides a mechanism for Ecology to be involved in cases where the potential risk warrants a complete risk analysis and for cases that may have statewide significance. Most, if not all local agencies do not have the expertise to review a risk analysis, so the requirement to involve Ecology's toxicologists in this review provides the public with some certainty that a project will not be approved until a well-founded determination has been made that the project will not result in unacceptable risk. We also support Ecology's involvement with cases that may have regional or statewide significance. We strongly encourage this determination to remain in the hands of Ecology and not be delegated to local agencies.

However, as with any regulation that has been implemented for several years, there are sections of Chapter 173-460 WAC that PSAPCA would suggest Ecology review and revise as warranted. We have attached specific comments that follow Ecology June 17 "Draft Proposal for Changes to WAC Chapters 173-400 & 460".

We hope these comments are useful, although probably not as timely as you would have liked. If you have questions or comments, feel free to contact me at (206) 689-4057. Also, I would be happy to meet with you or discuss specific issues by phone as the need arises.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Thank you for these general comments. Specific comments follow.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #122

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 1. & 2.

Comment Date: 980730

Comment # 2

Please state your comment here. (Make one comment at a time.)

1.-2. Control Requirements:

We concur that the existing control technology requirements in WAC 173-460-060 should be updated and additional control technology requirements should be added. The value of these generic source category requirements is when there is a potential for exceeding the Acceptable Source Impact Levels (ASILs), but Ecology has determined that there is a very stringent minimum control technology requirement that would allow permitting without additional toxics screening. The implication would be that Ecology has evaluated the potential health impact of continuing to permit these types of sources, and determined that the minimum "BACT" is sufficient to protect public health. As you know, this eliminates the case-by-case look at sensitive receptors for that specific location, but is appropriate for taking in some of the more general conservativeness of the ASILs and the screening analysis. Ecology should caveat the general control requirements with a statement clarifying that there may be cases when the local air agency or Ecology determines through the permitting process that additional controls are necessary because of project-specific factors such as the amount of emissions, nature of pollutant, or source location (as done in proposal).

* PSAPCA has updated our chromium electroplating and anodizing regulation to more closely follow the EPA NESHAPs, and we would recommend you refer to the EPA NESHAP requirements for new sources. You may also want to consider whether you want to exempt research & development (R&D) activities that the NESHAP does. PSAPCA requires permitting of R&D chrome plating and anodizing operations to assure they really are R&D. As noted in the previous paragraph, it is important not to delete this reference, because it is likely that

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

there are times when the ASIL may be exceeded. However, the NESHAP sufficiently controls these sources and we would recommend continuing to keep this source category in the generic BACT category (similar to reference to perchloroethylene dry cleaners).

* The solvent metal cleaner requirements should also reference the NESHAP when appropriate. Over half of our cleaners do not use one of the listed chemicals, so we have kept our regulation in place to cover these cleaners. However, many of them do not use a listed TAP, so I do not think 173-460 would apply. Our Regulation III, Section 3.05 does apply to all solvent metal cleaners. We recommend including the language in Regulation III, Section 3.05(c) that requires use of an alternative whenever technically and economically feasible. We also recommend exempting cold solvent cleaners that use a very low vapor pressure solvent since air emissions will be minimal (PSAPCA uses 4.2 kPa or 0.6 psia), unless greater than 5% of a halogenated solvent regulated by the NESHAP. These ideas bring in a pollution prevention element that we have found very useful.

* Abrasive blasting is difficult since PSAPCA does not require permitting for most outdoor blasting and, therefore, we have fewer tools for implementing this requirement. We would suggest further discussion with other agencies and Ecology to determine how best to implement this requirement.

* We concur that Ecology should use the results obtained from their review of a methylene chloride wood stripping operation in Spokane to determine generic control requirements. You may want to have a phased approach depending on the size of the operation (i.e., gallons used annually, as limited in a permit). We would also encourage you to discuss this issue with Marguit Bentowsky in Ecology's Toxics Reduction Group to determine if a pollution prevention element could be incorporated into the control requirements.

* PSAPCA exempts welding, brazing, and soldering equipment. We would recommend Ecology determine whether 173-460 is the most appropriate place to regulate these operations. If looking at these operations, Ecology should also look at cutting torches because the emissions are similar.

* PSAPCA recommends reviewing our ethylene oxide regulations for new source generic BACT requirements (Regulation III, Section 3.07). Also, painting and ink manufacturing operations (Regulation II, Section 3.11) should be considered, with a push for pollution prevention for ink manufacturing (soy-based products with low vapor pressure). Most of our other regulations are getting somewhat outdated to be considered new source BACT. However, we have a well-founded new source review approach to coffee burners and soil and groundwater remediation operations that we'd be happy to share.

* We would encourage you to perform a generic review of boilers and other fuel burning equipment (dependent on what fuel and size) and spray coating operations (dependent on what is painted and size of operation).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

These comments were used in the scoping paper.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #123

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 3.

Comment Date: 980730

Comment # 3

Please state your comment here. (Make one comment at a time.)

3. Coordinate BACT and MACT:

PSAPCA concurs that Ecology should coordinate BACT and MACT requirements. It is important to specifically define BACT to be at least as stringent as MACT (as is in existing regulation). However, BACT is likely to be more stringent in many cases, especially since MACT typically applies only to major sources and most of our new source permitting is for smaller sources.

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* We suggest reviewing the requirements in 40 CFR Part 63, Subpart B (112(g)) to determine if there is appropriate language for determining new source MACT that could be used for assuring good T-BACT determinations. Should this be in the regulation or in guidelines?

* Ecology may want to review existing new source MACT to determine if the requirements should apply to smaller operations (generic control technology requirements). PSAPCA often uses the MACT requirements for larger operations in determining BACT for smaller operations.

* We concur with the comments that a source that complies with MACT or T-BACT should not be exempt from modeling unless a Tier II analysis has been performed on a representative case study for that category (risk is determined through well-founded analysis, not to make the permit writer's life easier).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The complications of coordinating BACT and MACT are presented by this and other comments. Considering MACT in this rule making would create excessive complications. Permit writers may continue to consider MACT requirements on a case by case basis.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #124

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 4

Comment Date: 980730

Comment # 4

Please state your comment here. (Make one comment at a time.)

4. Categorical Exemption from Ambient Impact Analysis:

As noted before in this letter, exempting sources from the ambient impact analysis when generic control technology requirements have been established serves a very important purpose. However, it is important to make these determinations in conjunction with a representative risk analysis for that category and it may be useful to caveat with a statement clarifying that there may be cases when the local air agency or Ecology determines the risks are unacceptable because of sensitive receptors. It also is appropriate to limit generic BACT under certain conditions as appropriate (i.e., size of operation). This would be a very useful approach to expanding the number of source categories that do not have to go through a case-by-case ambient analysis without the concern of a few larger operations driving the modeling assumption to an extreme. Since a majority of our permits are small and for a limited number of source categories, having Ecology perform this generic ambient analysis would be very useful. This would also help permitting authorities focus on the more critical toxic issues. We included a copy of our instructions for permitting soil and groundwater clean-up operations that uses this type of approach. We have generic control requirements, then specify that benzene emissions greater than 15 pounds/year or emissions of chlorinated compounds would require a case-by-case toxics screening analysis. PSAPCA has also made a generic BACT determination to require afterburners for coffee roasters. We still, however, require roasters with a capacity of greater than 3200 pounds per day to do an ambient air quality analysis.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment is used in the scoping paper. It appears to represent a thoughtful, balanced approach to the issue. Who would conduct the categorical risk assessments would have to be determined however.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #125

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 5. & 7.

Comment Date: 980730

Comment # 5

Please state your comment here. (Make one comment at a time.)

5. and 7. Ongoing Review and Updating of ASILs:

Ecology should review and update the ASILs on a regular schedule, and Ecology should have an administrative

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

updating mechanism and technical review procedure in place. For updating the ASILs, we would recommend you explore the option Elizabeth Waddell of EPA Region 10 suggested at the last permit engineer's quarterly meeting (referencing procedures for updates?).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Ecology can not adopt documents by reference until those documents exist. The rule writer has begun developing a database that would assist in keeping the ASILs updated. The rule writer is not aware of any requests to update any particular ASILs since they were promulgated.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #126

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 6

Comment Date: 980730

Comment # 6

Please state your comment here. (Make one comment at a time.)

6. Compounds without ASILs:

We agree that having compounds on the TAP list without an ASIL seems useless, and is useless when performing a toxics screening analysis. However, it may be important to permit the operation and require BACT (depending on the operation). Taking the chemical off the list may indicate that the permitting authority could not require a permit for the operation. However, there may be compounds for which we should always do a risk analysis. If there are such compounds, we should list them in the regulation.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #127

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 8a

Comment Date: 980730

Comment # 7

Please state your comment here. (Make one comment at a time.)

8a. Chemicals with ASILs >250:

We don't need ASILs for criteria pollutants; the PSD program should address health impacts. We found the comment to drop all chemicals with an ASIL greater than 250 ug/m3 to be very interesting and worth some thought. Would BACT for these pollutants be addressed elsewhere in the permitting process or should we even require BACT for these pollutants? We suggest working with your toxicologists and permitting engineers to determine if there is some point when we would have no interest having an operation go through the permitting process. We concur that these pollutants rarely, if ever, have an ASIL exceedance, but do we want to lose the BACT requirement for these sources? At a minimum, specifying that facilities that have the potential to emit below a certain threshold of these low toxicity chemicals probably do not have to be permitted. In conjunction with this approach, we may want to identify source categories/operations that would require permitting, even if low quantities of these chemicals are emitted, because we have determined a generic control technology requirement is appropriate.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #128
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and A&WMA PNWIS Puget Sound Chapter
Section/Subsection # 8c Comment Date: 980730 Comment # 8

Please state your comment here. (Make one comment at a time.)

8c. ASILs for Persistent Bioaccumulative Toxics:

We concur that Ecology should consider a more stringent approach to regulating persistent bioaccumulative toxics.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The rule writer would be interested in learning what this approach might be. It does not appear that the Dept. Of Ecology will have the resources to evaluate individual ASILs during this rule making.

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #129
Page # -- Line # -- Puget Sound Air Pollution Control Authority
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Section/Subsection # 9 Comment Date: 980730 Comment # 9

Please state your comment here. (Make one comment at a time.)

9. Compounds Regulated Under FCAA 112(r).

The 112(r) program is focused on accidental release, which is very different from new source review. We do not recommend including these chemicals on the ASIL list.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The consensus is to not use the 112(r) chemical list in updating the ASIL list.

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #130
Page # -- Line # -- Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter
Section/Subsection # 10 Comment Date: 980730 Comment # 10

Please state your comment here. (Make one comment at a time.)

10. Move SQER into Master Table:

We concur that the small quantity emission rates should be included in the master table. We also recommend reviewing the assumptions made in determining these numbers since they are often not representative of very small operations. You may want to have a small stack and large stack option for the permitting engineer.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

A master table seems to be feasible. Screen3 parameters used to calculate the SQER represent average operations. In the real world, some are larger, and some are smaller.

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #131
Page # -- Line # -- Puget Sound Air Pollution Control Authority
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Section/Subsection # 11 Comment Date: 980730 Comment # 11

Please state your comment here. (Make one comment at a time.)

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

11. Unified Table:

Having the ASIL number very easily accessible is critical for practical implementation. PSAPCA combines all chemicals in one table and includes chemical synonyms.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The consensus is to consolidate the ASIL tables.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #132

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 12

Comment Date: 980730

Comment # 12

Please state your comment here. (Make one comment at a time.)

12. Consolidate all NSR:

We concur that all new source review should be consolidated. PSAPCA includes our toxics review as one component of our new source review program in Regulation I, Article 6. PSAPCA's approach is to determine that an operation needs to be permitted, either because of criteria or toxic air pollutant emissions, then determine BACT, then determine if there is any ambient impacts (toxics or criteria pollutants). New source review should be an integrated approach. However, WAC 173-400-110 currently applies statewide unless an authority has adopted and is implementing its own new source review regulation and those regulations are incorporated into the state implementation plan (SIP). As we have discussed, the state implementation plan is intended to address criteria pollutant issues, so this applicability statement may not be appropriate for the toxics review. You may want to exclude the toxics review procedures, especially for 2nd and 3rd Tier Analyses, from the reference to the SIP. We suggest that as you combine these regulations, you consider whether each section should appropriately be submitted as part of the SIP. EPA could probably provide guidance on this issue.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The comment is addressed in the scoping paper. Consolidating NSR is a goal of this rule making. The complication pointed out in this comment will have to be resolved.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #133

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 13

Comment Date: 980730

Comment # 13

Please state your comment here. (Make one comment at a time.)

13. Industrial Classifications/Exemptions:

As part of the integration of toxics into new source review, we concur that you should specify source categories/operations that should be exempt from permitting. These exemptions should consider both criteria and toxic air pollutant implications. If exempting source categories/operations, Ecology should either determine that there is no potential for ambient impacts or there are more effective ways to regulate the process (i.e., woodstoves).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Exemptions should be explicitly considered, as the comment suggests.

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #134
Page # -- Line # -- Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter
Section/Subsection # 18 Comment Date: 980730 Comment # 14

Please state your comment here. (Make one comment at a time.)

18. Pollution Prevention:

In regard to pollution prevention, PSAPCA considers this to be a part of any good BACT determination. However, we also recognize that this does not always occur during the determination. We suggest evaluating the language used in our degreaser regulation (Regulation III, Section 3.05(c)) to determine if explicit language similar to this should be included in the WAC. We have found this language difficult to enforce, but if there is any willingness at a facility to explore options, the approach has been successful. We would suggest discussing this idea with Rob Reuter at Ecology's Toxics Reduction Group in Bellevue since he has worked closely with PSAPCA with our degreaser rule. He may have alternative or improved language to suggest. He also has a very good feel on how our programs could be better integrated to make sure pollution prevention is practical for a facility. We have found that permit review time is an ideal time to review pollution prevention.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

Rob Reuter was contacted. A pollution prevention work group has been formed in Ecology to advocate this priority.

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #135
Page # -- Line # -- Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter
Section/Subsection # 19 Comment Date: 980730 Comment # 15

Please state your comment here. (Make one comment at a time.)

De Minimis TAPS:

Regarding de minimis levels, we do not concur that WAC 173-460-040(2)(b) and (c) mean a "minor change" could increase emissions by 20 tons/year and the operation would not need a new source review permit. The change has to be a minor process change that does not increase capacity or a minor change in raw material composition and emissions will not exceed the SQERS.

If potential emissions are below de minimis levels (less than 0.1 of SQER) and the authority or Ecology has not determined that the process needs to be permitted, we would be comfortable exempting these sources from new source review. However, it is very important to be clear that there may be times that an authority will say all processes, regardless of size, need to be permitted because it is important to specify conditions for BACT or proper operation. A good example is evaporators. A facility could imply that there are no air emissions since they are just evaporating water. However, PSAPCA requires permitting of evaporators to specify what can be evaporated and how the evaporator should be operated to assure only water vapor is emitted.

Ecology Decision:

- Concur*
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

Document: Scoping 980619 Commenter(s): Margaret Corbin Id. #136
Page # -- Line # -- Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter
Section/Subsection # 20 Comment Date: 980730 Comment # 16

Please state your comment here. (Make one comment at a time.)

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Please state your comment here. (Make one comment at a time.)

22a. Radionuclides:

Since Ecology and the air permitting authorities have no authority over radionuclides, we concur that WAC 173-400-100(1)(d) should be extended to cover this activity.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

It makes sense, but has complications due to other regulatory programs.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #140

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 22r

Comment Date: 980730

Comment # 20

Please state your comment here. (Make one comment at a time.)

22r. Exempt R&D and Laboratories:

In regard to R&D facilities, PSAPCA does exempt fume hoods not designed to prevent or reduce air contaminant emissions and laboratory equipment used exclusively for chemical or physical analysis. However, we have permitted large R&D operations at the UW when a scrubber was installed.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

Document: Scoping 980619

Commenter(s): Margaret Corbin

Id. #141

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Puget Sound Air Pollution Control Authority
and A&WMA PNWIS Puget Sound Chapter

Section/Subsection # 23

Comment Date: 980730

Comment # 21

Please state your comment here. (Make one comment at a time.)

23. Clarify NSR Requirements:

In regard to clarifying new source review requirements for existing sources and modification, we see no end to this discussion. PSAPCA considers this to be part of the permit review to determine what constitutes a modification and how much of the facility operation is affected by the modification. It is difficult to define or resolve these issues in a rulemaking. We recommend leaving this to good judgment by the permit engineer.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This comment was used in the scoping paper.

Document: WAC

Commenter(s): Alan Butler

Id. #142

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Dept. Ecology NWRO

Section/Subsection # WAC 173-400-141

Comment Date: 980930

Comment # 1

Please state your comment here. (Make one comment at a time.)

I was just getting ready to leave NWAPA this afternoon when I had to help Jamie Randles talk to an environmental guy from ARCO. They were trying to figure out if they had to figure contemporaneous emissions (new PTE minus old ACTUAL) back 5 years or 10. I had to tell 'em that in all the commotion I forgot whether it was 5 years, or 10. Actually I told 'em that they had to figure it out both ways, and if they triggered PSD either way they were SOL (PSD applicability-wise). We really need to fix that. I checked out latest -400, thinking

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

maybe we had done it. Nope. Next time? Let's dial our contemporaneous wayback machine to 5 years, just like the EPA.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

This issue is addressed in the scoping paper.

Document: Comment Respo

Commenter(s): Kirk Peterson

Id. #143

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Flour Daniel Hanford

Section/Subsection # 1

Comment Date: 981007

Comment # 1

Please state your comment here. (Make one comment at a time.)

SEE BELOW EXPANDED CLARIFICATION OF DRAFT ISSUE ID#1[now #3]

WAC 173-60-030 Requirements, Applicability and Exemptions.

We would like to clarify (i.e. either expand the chapter applicability exemptions and/or refine the intent of paragraph (1)(b)(ii)) beyond what is currently under Ecology's scope in paragraph (1) (b) (i) for a change from standard industrial classifications (SIC) system groupings to NAICFS system for industry classifications. This isn't the applicability criteria that burdens us as an industry as much as paragraph (1)(b)(ii) regarding an applicability link back to the WAC 173-400-110 in the clause, "any source or source category listed in WAC 173-400-100." For our facilities evaluating NSR applicability, one of the most common criteria that draws us in as an applicable requirement, are those mixed waste sources that contribute a de minimus TAP constituent (not specifically identified as an applicable source category) AND a radionuclide component. Therefore, a NESHAP association makes this source activity applicable as shown below:

WAC 173-460-030(1)(b)(ii) Chapter Applicability?? (Yes, because of WAC 173-400-100(1)(d). That is, the radionuclide particulate portion of the mixed waste stream being regulated under the 40 CFR 61, Subpart H NESHAP).

An example like above, draws us into NSR for insignificant taps emissions due to the presence of the radionuclide (NESHAP) constituent, which already undergoes NSR for the agency with authority over radionuclides (i.e.. WDOH and/or EPA).

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

It makes sense, but has complications due to other regulatory programs.

Document: WAC

Commenter(s): Kirk Peterson

Id. #144

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Flour Daniel Hanford

Section/Subsection # WAC 173-460-040 & -
080 (01/14/94)

Comment Date: 981007

Comment # 1

Please state your comment here. (Make one comment at a time.)

Many of the NSR permitting we process under WAC 173-460-040 section do not currently qualify for an exemption under paragraph (2) of this section, but are well below or approaching the ASIL levels. We strongly support Ecology's proposal for clarification in the area of de minimus levels [e.g., Ecology expansion of the intent of the term "minor process change" under WAC 173-460-040(2)(b) AND utilizing a de minimus category/threshold process similar to WAC 173-400-110(4) and (5) would be of great benefit in clarifying the intent of this exemption].

Another section we would like additional clarification on is WAC 173-460-080 "Demonstrating Ambient Impact

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

Compliance." Under this section, the area of difficulty is the SQER table concerning ASIL values of less than 0.001 for the Class A TAPs (i.e., no SQER is assigned for these constituents).

Summary

We agreed with your proposal to develop de minimis levels and making them tie closely both with the source category exemption either as a replacement of the SQER in conjunction with the SQER to provide a better cross tie allowance for those things that are really insignificant emissions.

In addition, we would propose a revision to the Class A SQER table to include a corresponding value for those constituents with an ASIL value for those less than 0.001.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

De minimis is a core aspect of this rule-making. A SQER for each substance is discussed in the scoping paper.

Document: WAC 173-460 (9

Commenter(s): Roger Dovel

Id. #145

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Wash. Dept. Ecology, AQP

Section/Subsection # WAC 173-460-
116(3)(a)

Comment Date: 981104

Comment # 1

Please state your comment here. (Make one comment at a time.)

Change "ten thousand dollars" to "up to ten thousand dollars." This will allow Ecology to charge less than the maximum for simple modifications and/or administrative modifications.

Ecology Decision:

- Concur
 Partial Concurrence
 Deferred
 None of the Above

Ecology Rationale:

The amount charged to process permit applications should reflect the amount of resources expended by Ecology. This comment was included in the scoping paper.

Document: Scoping

Commenter(s): David Moore

Id. #146

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Association Washington Business

Section/Subsection # --

Comment Date: 981130

Comment # 1

Please state your comment here. (Make one comment at a time.)

Thank you for sharing your preliminary rule development plan for revisions to the Air Toxics New Source Review regulation, and allowing us the opportunity to comment on it. The Association of Washington Business believes there is a great deal that can be accomplished towards making the NSR rules clearer, consistent, understandable, enforceable and environmentally beneficial. We appreciate the opportunity to participate in the earliest stages of this rulemaking, and feel this is essential to effective rule development.

In general, we concur with your proposal to combine the existing New Source Review rules into a single, consolidated regulation. We believe it would be easier and more practical to fold the TAC New Source Review procedures into The General Regulations for Air Pollution Sources (WAC 173-400) rather than move the general procedures from the general rule into the Air Toxics rule (WAC 173-460). We will be preparing example rule language to accomplish this consolidation.

We strongly support the application of de minimis exclusions to environmentally insignificant sources of Toxic Air Contaminants. These de minimis exclusions could be defined similarly to those exclusions recently added to the General Regulations. These could be in the form of: 1) categorical de minimis exemptions; 2) SQER table based exclusions; or 3) ASIL based exclusions, where modeled impacts are compared to Acceptable Source Impact Levels; or 4) screening assessments showing risks to be below specified cancer or exposure thresholds. It is proposed that the thresholds be: a) a maximum individual cancer risk (MICR) of less than one

WAC Chapter 173-400 and -460 Draft Responsiveness Summary

hundred in one million, or b) an acute hazard index (HI) of less than five in the case of noncarcinogenic substances.

The business community has previously raised a number of issues related to new Source Review. The Association of Washington Business is now revisiting those and other related issues/concerns. Those issues are not detailed here, but will be communicated to the Department of shortly.

AWB appreciates Ecology's commitment to work with us exploring methods of improving the efficiency and cost-effectiveness of Washington's air quality program. As we continue this process, please don't hessitate (sic) to contact us for additional input or information.

Ecology Decision:

Ecology Rationale:

- Concur*
 - Partial Concurrence*
 - Deferred*
 - None of the Above*
-