

**WAC 173-400-720 Prevention of significant deterioration (PSD).**

(1) No major stationary source or major modification to which the requirements of this section apply is authorized to begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:

(a) Receive all reports required in the PSD permit;

(b) Enforce the requirement to apply for a PSD permit when one is required; and

(c) Enforce the conditions in the PSD permit.

(4) **Applicable requirements.**

(a) A PSD permit must assure compliance with the following requirements:

(i) WAC 173-400-113 (1) through (4);

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(iii) WAC 173-400-200;

(iv) WAC 173-400-205;

(v) Allowable emission limits established under WAC 173-400-081 must also meet the criteria of 40 C.F.R. 52.21 (k) (1) and 52.21 (p) (1) through (4) (in effect on the date in WAC 173-400-025); and

(vi) The following subparts of 40 C.F.R. 52.21 (in effect on the date in WAC 173-400-025) are adopted. Exceptions are listed in (b) (i), (ii), (iii), and (iv) of this subsection:

<u>Section</u>	<u>Title</u>
40 C.F.R. 52.21 (a)(2)	Applicability Procedures.
40 C.F.R. 52.21(b)	Definitions, except the definition of "secondary emissions."
40 C.F.R. 52.21(c)	Ambient air increments.
40 C.F.R. 52.21(d)	Ambient air ceilings.
40 C.F.R. 52.21(h)	Stack heights.
40 C.F.R. 52.21(i)	Review of major stationary sources and major modifications - Source applicability and exemptions.
40 C.F.R. 52.21(j)	Control technology review.
40 C.F.R. 52.21(k)	Source impact analysis.
40 C.F.R. 52.21(l)	Air quality models.
40 C.F.R. 52.21(m)	Air quality analysis.
40 C.F.R. 52.21(n)	Source information.
40 C.F.R. 52.21(o)	Additional impact analysis.
40 C.F.R. 52.21 (p)(1) through (4)	Sources impacting federal Class I areas - Additional requirements
40 C.F.R. 52.21(r)	Source obligation.
40 C.F.R. 52.21(v)	Innovative control technology.
40 C.F.R. 52.21(w)	Permit rescission.

Section	Title
40 C.F.R. 52.21 (aa)	Actuals Plantwide Applicability Limitation.

(b) Exceptions to adopting 40 C.F.R. 52.21 by reference.

(i) Every use of the word "administrator" in 40 C.F.R. 52.21 means ecology except for the following:

(A) In 40 C.F.R. 52.21 (b) (17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 C.F.R. 52.21 (1) (2), air quality models, "administrator" means the EPA administrator.

(C) In 40 C.F.R. 52.21 (b) (43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 C.F.R. 52.21 (b) (48) (ii) (c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 C.F.R. 52.21 (b) (50) (i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(F) In 40 C.F.R. 52.21 (b) (37) related to the definition of re-powering, "administrator" means the EPA administrator.

(G) In 40 C.F.R. 52.21 (b) (51) related to the definition of reviewing authority, "administrator" means the EPA administrator.

(ii) Each reference in 40 C.F.R. 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (p) (1), (2), (3) and (4) of this section, paragraph (r) of this section, WAC 173-400-720, and 173-400-730."

(iii) The following paragraphs replace the designated paragraphs of 40 C.F.R. 52.21:

(A) In (a) (2) (iv) (c): "Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the increase between the projected actual emissions (as defined in paragraph (b) (41) of this section) and the baseline actual emissions (as defined in paragraphs (b) (48) (i) and (ii) of this section), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b) (23) of this section)."

(B) In (a) (2) (iv) (d): "Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the increase between the potential to emit (as defined in paragraph (b) (4) of this section) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (b) (48) (iii) of this section) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (b) (23) of this section)."

(C) In (a) (2) (iv) (f): "Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the increase for each emissions unit, using the method specified in paragraphs (a) (2) (iv) (c) and (d) of this section as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (b) (23) of this section)."

(D) In 40 C.F.R. 52.21 (b) (1) (i) (a) and (b) (1) (iii) (h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(E) 40 C.F.R. 52.21 (b) (23) (i) after the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(F) 40 C.F.R. 52.21(c) after the effective date of EPA's incorporation of this section into the Washington state implementation plan, the concentrations listed in WAC 173-400-116(2) are excluded when determining increment consumption."

(G) 40 C.F.R. 52.21 (r) (6)

"The provisions of this paragraph (r) (6) apply with respect to any regulated NSR pollutant from projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the method specified in paragraphs 40 C.F.R. 52.21 (b) (41) (ii) (a) through (c) for calculating projected actual emissions.

- (i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
  - (a) A description of the project;
  - (b) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
  - (c) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph 40 C.F.R. 52.21 (b) (41) (ii) (c) and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- (ii) The owner or operator shall submit a copy of the information set out in paragraph 40 C.F.R. 52.21 (r) (6) (i) to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r) (6) (ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.
- (iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in paragraph 40 C.F.R. 52.21 (r) (6) (i) (b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

- (iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph 40 C.F.R. 52.21 (r) (6) (iii) setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- (v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph 40 C.F.R. 52.21 (r) (6) (i), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph 40 C.F.R. 52.21 (r) (6) (i) (c)), by a significant amount (as defined in paragraph 40 C.F.R. 52.21 (b) (23)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph 40 C.F.R. 52.21 (r) (6) (i) (c). Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:
  - (a) The name, address and telephone number of the major stationary source;
  - (b) The annual emissions as calculated pursuant to paragraph (r) (6) (iii) of this section; and
  - (c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).
- (vi) A "reasonable possibility" under this subsection occurs when the owner or operator calculates the project to result in either:
  - (a) A projected actual emissions increase of at least fifty percent of the amount that is a "significant emissions increase," (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
  - (b) A projected actual emissions increase that, added to the amount of emissions excluded under the definition of projected actual emissions sums to at least fifty percent of the amount that is a "significant emissions increase," (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of (r) (6) (vi) (b) of this subsection, and not also within the meaning of (r) (6) (vi) (a) of this subsection, then the provisions of (r) (6) (vi) (ii) through (v) of this subsection do not apply to the project."

(H) 40 C.F.R. 52.21 (r) (7) "The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs 40 C.F.R. 52.21 (r) (6) (iv) and (v) annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 C.F.R. 70.4 (b) (3) (viii)."

(I) 40 C.F.R. 52.21 (aa) (2) (ix) "PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or

regulatory order issued under WAC 173-400-091 issued by ecology that establishes a PAL for a major stationary source."

(J) 40 C.F.R. 52.21 (aa)(5) "Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740."

(K) 40 C.F.R. 52.21 (aa)(9)(i)(b) "Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate."

(L) 40 C.F.R. 52.21 (aa)(14) "Reporting and notification requirements. The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs 40 C.F.R. 52.21 (aa)(14)(i) through (iii)."

(M) 40 C.F.R. 52.21 (aa)(14)(ii) "Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC 173-401-615(3)."

(iv) The following provisions in 40 C.F.R. 52.21 are not adopted:  
(a)(2)(iv)(g) and (r)(2).

[Statutory Authority: RCW 70A.30.010. WSR 23-01-102 (Order 21-12), § 173-400-720, filed 12/19/22, effective 1/19/23. Statutory Authority: RCW 70.94.152, 70.94.331, 70.94.860. WSR 16-12-099 (Order 16-01), § 173-400-720, filed 5/31/16, effective 7/1/16. Statutory Authority: Chapter 70.94 RCW. WSR 12-24-027 (Order 11-10), § 173-400-720, filed 11/28/12, effective 12/29/12; WSR 11-17-037 (Order 11-04), § 173-400-720, filed 8/10/11, effective 9/10/11; WSR 11-06-060 (Order 09-01), § 173-400-720, filed 3/1/11, effective 4/1/11. Statutory Authority: RCW 70.94.395 and 70.94.331. WSR 07-11-039 (Order 06-03), § 173-400-720, filed 5/8/07, effective 6/8/07. Statutory Authority: RCW 70.94.152. WSR 05-03-033 (Order 03-07), § 173-400-720, filed 1/10/05, effective 2/10/05.]