WAC 173-400-111  Processing notice of construction applications 
for sources, stationary sources and portable sources. WAC 
173-400-110, 173-400-111, 173-400-112, and 173-400-113 apply statewide 
except where a permitting authority has adopted its own new source re-
view regulations.

(1) Completeness determination.
(a) Within thirty days after receiving a notice of construction 
application, the permitting authority must either notify the applicant 
in writing that the application is complete or notify the applicant in 
writing of all additional information necessary to complete the applic-
cation.
(b) A complete application contains all the information necessary 
for processing the application. At a minimum, the application must 
provide information on the nature and amounts of emissions to be em-
itted by the proposed new source or increased as part of a modification, 
as well as the location, design, construction, and operation of the 
new source as needed to enable the permitting authority to determine 
that the construction or modification will meet the requirements of 
WAC 173-400-113. Designating an application complete for purposes of 
permit processing does not preclude the reviewing authority from re-
questing or accepting any additional information.
(c) For a project subject to the special protection requirements 
for federal Class I areas under WAC 173-400-117(2), a completeness de-
termination includes a determination that the application includes all 
information required for review of that project under WAC 
173-400-117(3). The applicant must send a copy of the application and 
all amendments to the application to the EPA and the responsible fed-
eral land manager.
(d) For a project subject to the major new source review require-
ments in WAC 173-400-800 through 173-400-860, the completeness deter-
mination includes a determination that the application includes all 
information required for review under those sections.
(e) An application is not complete until any permit application 
fee required by the permitting authority has been paid.

(2) Coordination with chapter 173-401 WAC, operating permit regu-
lation. A person seeking approval to construct or modify a source that 
requires an operating permit may elect to integrate review of the op-
erating permit application or amendment required under chapter 173-401 
WAC and the notice of construction application required by this sec-
tion. A notice of construction application designated for integrated 
review must be processed in accordance with operating permit program 
procedures and deadlines in chapter 173-401 WAC and must comply with 
WAC 173-400-171.

(3) Criteria for approval of a notice of construction applica-
tion. An order of approval cannot be issued until the following crite-
ia are met as applicable:
(a) The requirements of WAC 173-400-112;
(b) The requirements of WAC 173-400-113;
(c) The requirements of WAC 173-400-117;
(d) The requirements of WAC 173-400-171;
(e) The requirements of WAC 173-400-200 and 173-400-205;
(f) The requirements of WAC 173-400-700 through 173-400-750;
(g) The requirements of WAC 173-400-800 through 173-400-860;
(h) The requirements of chapter 173-460 WAC; and
(i) All fees required under chapter 173-455 WAC (or the applica-
ble new source review fee table of the local air pollution control au-
thority) have been paid.
(4) Final determination - Time frame and signature authority.
(a) Within sixty days of receipt of a complete notice of construction application, the permitting authority must either:
(i) Issue a final decision on the application; or
(ii) Initiate notice and comment for those projects subject to WAC 173-400-171 followed as promptly as possible by a final decision.
(b) Every final determination on a notice of construction application must be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the permitting authority.
(5) Distribution of the final decision.
(a) The permitting authority must promptly provide copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.
(b) If the new source is a major stationary source or the change is a major modification subject to the requirements of WAC 173-400-800 through 173-400-860, the permitting authority must:
(i) Submit any control technology (LAER) determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA; and
(ii) Send a copy of the final approval order to EPA.
(6) Appeals. Any conditions contained in an order of approval, or the denial of a notice of construction application may be appealed to the pollution control hearings board as provided under chapters 43.21B RCW and 371-08 WAC.
(7) Construction time limitations.
(a) Approval to construct or modify a stationary source becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The permitting authority may extend the eighteen-month period upon a satisfactory showing by the permittee that an extension is justified.
(b) The extension of a project that is either a major stationary source, as defined in WAC 173-400-810, in a nonattainment area or a major modification, as defined in WAC 173-400-810, of a major stationary source in a nonattainment area must also require LAER, for the pollutants for which the area is classified as nonattainment, as LAER exists at the time of the extension for the pollutants that were subject to LAER in the original approval.
(c) This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commence construction date.
(8) Change of conditions or revisions to orders of approval.
(a) The owner or operator may request, at any time, a change in the conditions of an approval order and the permitting authority may approve the request provided the permitting authority finds that:
(i) The change in conditions will not cause the source to exceed an emissions standard set by regulation or rule;
(ii) No ambient air quality standard will be exceeded as a result of the change;
(iii) The change will not adversely impact the ability of the permitting authority to determine compliance with an emissions standard;
(iv) The revised order will continue to require BACT for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

(v) The revised order meets the requirements of WAC 173-400-111, 173-400-112, 173-400-113, 173-400-720, 173-400-830, and 173-460-040, as applicable.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171 or the permitting authority's public notice and comment procedures.

(c) The applicant must consider the criteria in 40 C.F.R. 52.21 (r)(4) (in effect on the date in WAC 173-400-025) or 173-400-830(3), as applicable, when determining which new source review approvals are required.

(9) Fees. Chapter 173-455 WAC lists the required fees payable to ecology for various permit actions.

(10) Enforcement. All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

[Statutory Authority: RCW 70.94.152, 70.94.331, 70.94.860. WSR 16-12-099 (Order 16-01), § 173-400-111, filed 5/31/16, effective 7/1/16. Statutory Authority: Chapter 70.94 RCW. WSR 12-24-027 (Order 11-10), § 173-400-111, filed 11/28/12, effective 12/29/12; WSR 11-06-060 (Order 09-01), § 173-400-111, filed 3/1/11, effective 4/1/11.]