

WSR 20-16-057
PERMANENT RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed July 28, 2020, 2:20 p.m., effective September 1, 2020]

Effective Date of Rule: September 1, 2020.

Purpose: Spokane regional clean air agency (SRCAA) Regulation I establishes the regulatory framework and control strategies to ensure that healthy air quality exists in Spokane County, Washington, including meeting the federal air quality standards. The amendments update Regulation I to meet requirements in chapter 173-400 WAC and the federal new source review regulations to ensure that SRCAA is consistent with state and federal clean air acts while attaining and maintain [maintaining] good air quality and protecting citizens' health.

The amendments will improve clarity, readability, formatting consistency among Articles; improve consistency with state and federal requirements; simplify compliance for the regulated community by adding adoption by reference sections that specify which state and federal rules are adopted by reference; streamline source test provisions; clarify registration program requirements; clarify new source review requirements; simplify portable source permitting process and update public involvement provisions to allow e-noticing; meeting federal enforceability requirements and the EPA's federal requirements for incorporation into the state implementation plan.

Citation of Rules Affected by this Order: New SRCAA Regulation I, Article I, Section 1.05; Article II, Sections 2.16, 2.17, 2.18, 2.19; and Article IV, Section 4.05; repealing SRCAA Regulation I, Section 6.06; and amending SRCAA Regulation I, Article I, Sections 1.01, 1.02, 1.03, 1.04; Article II, Sections 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15; Article IV, Sections 4.01, 4.02, 4.03, 4.04; Article V, Sections 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15; Article VI, Sections 6.01, 6.02, 6.03, 6.04, 6.05, 6.07, 6.08, 6.09, 6.11, 6.12, 6.13, 6.14, 6.15, 6.17; and Article X, Sections 10.02, 10.06, 10.07, 10.08, 10.11, 10.13.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 20-07-094 on March 17, 2020.

Changes Other than Editing from Proposed to Adopted Version: The following typographical changes were made:

- Article I, Section 1.04 (A)(123) correcting a typographical error in the definition of "vent": Vent means any opening ~~though~~ through which air pollutants are exhausted into the ambient air.
- Article II, Section 2.14 (A)(1) correcting a typographical error in the adoption by reference of WAC 173-400-105 Records, monitoring: Exceptions. The following subsections are not adopted by reference 105(3, 4, 6, ~~040~~(8)).

The following place saver changes were made:

- Article IV, Section 4.02 (F)(1) was edited to remove the place saver and insert effective date of 9/1/20.

- Article VI, Section 6.06 was edited to remove the place saver and insert the repealed date of 7/9/20 and Resolution No. 20-08.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 5, Amended 39, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 58, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 58, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 9, 2020.

Margee Chambers
 Rule Writer
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SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA)
 AMENDMENTS TO SRCAA REGULATION I, ARTICLES I, II, IV, V,
 VI, X

AMENDATORY SECTION
SECTION 1.01 POLICY

(A) Agency and Jurisdiction. The ~~((Authority))~~ Agency, co~~(-)~~extensive with the boundaries of Spokane County, having been activated pursuant to the Washington Clean Air Act (WCAA), Chapter 70.94 RCW as amended, shall be known and cited as the "Spokane Regional Clean Air Agency," and hereinafter may be cited as ~~((the))~~ "SRCAA", or the "Agency"~~((, or the "Authority"))~~. The ~~((Authority))~~ Agency adopts the following Regulation I to control the emissions of air contaminants from all stationary sources within the jurisdiction of the ~~((Authority))~~ Agency; to provide for the uniform administration and enforcement of the ~~((Authority's))~~ Agency's Regulation I; and to carry out the requirements and purposes of the ~~((Washington Clean Air Act (WCAA)))~~ WCAA.

(B) Public Policy.

(1) It is hereby declared to be the public policy of the ~~((Spokane Regional Clean Air))~~ Agency to secure and maintain such levels of air quality that protect human health and safety, including the health and safety of the most sensitive members of the population, to comply with the requirements of the Federal Clean Air Act (FCAA), to prevent injury to plant and animal life and to property, to foster the comfort and convenience of its inhabitants, to promote the economic and social development of the County, and to facilitate the enjoyment of the natural attractions of the County.

(2) It is further the intent of ~~((this))~~ Regulation I to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.

(C) Applicability.

(1) Wherever the ~~((Authority's))~~ Agency's Regulation I constitutes a restatement of the requirements and purposes of Chapter 70.94 RCW, it is the intent of the ~~((Authority))~~ Agency that the Regulation be interpreted in the same manner as the statute adopted by the Legislature. Any language deviation from the statute, except where the statute allows an ~~((Authority))~~ Agency to be more stringent, is intended for purposes of clarity. As provided in Chapter 70.94 RCW and WAC 173-400-020(1), the provisions of Chapter 173-400 WAC apply statewide except where a local authority has adopted and implemented corresponding rules that apply only to sources subject to local jurisdiction, as provided in RCW 70.94.141 and RCW 70.94.331. The sections of the WAC adopted by reference are given in SRCAA Regulation I, Article II, Section 2.14.

(2) Agency regulations that have been or will be approved by the United States Environmental Protection Agency (EPA) for inclusion in the Washington State Implementation Plan (SIP) apply for purposes of Washington's SIP, only to the following:

(a) Those air contaminants for which EPA has established National Ambient Air Quality Standards (NAAQS) and precursors to such NAAQS pollutants as determined by EPA for the applicable geographic area; and

(b) Any additional air contaminants that are required to be regulated under Part C of Title I of the Federal Clean Air Act (FCAA), relating to prevention of significant deterioration and visibility, but only for the purpose of meeting the requirements of Part C of Title I of the FCAA or to the extent those additional air contaminants are regulated in order to avoid such requirements.

AMENDATORY SECTION

SECTION 1.02 NAME OF ~~((AUTHORITY))~~ AGENCY

(A) Name. The name of the County Air Pollution Control Authority, ~~((co-extensive))~~ coextensive with the boundaries of Spokane County, shall be known as the ~~(("SPOKANE REGIONAL CLEAN AIR AGENCY"))~~ "Spokane Regional Clean Air Agency" (SRCAA).

(B) Reference. Any reference to the Spokane County Air Pollution Control Authority, SCAPCA, or the Authority in any document previously issued by the ~~((Authority))~~ Agency, including without limitation regulations, orders, permits, judgments, letters and the like shall be deemed reference to the Spokane Regional Clean Air Agency or SRCAA.

AMENDATORY SECTION

SECTION 1.03 SHORT TITLE

This ~~((regulation))~~ Regulation shall be known and cited as "Regulation I of the Spokane Regional Clean Air Agency."

AMENDATORY SECTION

SECTION 1.04 GENERAL DEFINITIONS

(A) Unless otherwise defined ~~((differently))~~ in an Article of ~~((this))~~ Regulation I, the following definitions apply to all of ~~((this))~~ SRCAA Regulation I. ~~((:))~~ In Article II, Section 2.14, the Agency adopts by reference certain definitions provided in WAC 173-400-030, not otherwise specified in Section 1.04.

(1) Actual Emissions means the actual rate of emissions of a pollutant from an emissions unit, as determined in accor-

dance with ~~((+))~~ (a) through ~~((-))~~ (c) ~~((of this subsection))~~ below.

~~((+))~~ (a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year at which the emissions unit actually emitted the pollutant during a two ~~((-))~~ year period which precedes the particular date and which is representative of normal stationary source operation. The ~~((Authority))~~ Agency shall allow the use of a different time period upon a determination that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

~~((-))~~ (b) The ~~((Authority))~~ Agency may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

~~((-))~~ (c) For any emissions unit, which has not begun normal operations on the particular date, actual emissions shall equal the potential-to-emit of the emissions unit on that date.

(2) Agency means and refers to ~~((the same as "Authority"))~~ "Spokane Regional Clean Air Agency (SRCAA)".

(3) Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance or any combination thereof.

~~((Air Contaminant Source means the same as "source"))~~

(4) Air Operating Permit (AOP) Source means any facility required to have an air operating permit ~~((pursuant to))~~ per Chapter 173-401 WAC.

(5) Air Pollutant means the same as ~~((*)~~ Air ~~((e))~~ Contaminant".

(6) Air Pollution means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property; or which unreasonably interferes with enjoyment of life and property. For the purposes of ~~((this))~~ Regulation I, air pollution shall not include air contaminants emitted in compliance with Chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(7) Air Pollution Episode means a period when a forecast, alert, warning, or emergency air pollution state is declared, as stated in Chapter 173-435 WAC.

(8) Allowable Emissions means the emission rate of a stationary source, calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

~~((+))~~ (a) The applicable standards as in 40 CFR Parts 60, ~~((*)~~ 61, 62, or 63;

~~((-))~~ (b) Any applicable State Implementation Plan (SIP) emissions limitation including those with a future compliance date; or

~~((-))~~ (c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(9) Alteration means ~~((the act of altering, which means))~~ to change or make different. Alteration includes, but is not

limited to, any enlargement, replacement, ~~((or))~~ change in the design, operation, capacity, or process arrangement ~~((of a process; any))~~, increase in the connected loading of process or control equipment, ~~((and any))~~ change in fuels, method of operation, or hours of operation, not previously approved by the Agency.

(10) *Ambient Air* means the surrounding outside air.

(11) *Ambient Air Quality Standard* means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air, which shall not be exceeded.

(12) *Approval Order* means the same as "Order of Approval".

(13) *Attainment Area* means a geographic area, designated by the Environmental Protection Agency (EPA) at 40 CFR Part 81, as having attained the National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant.

(14) *Authority* means ~~((Spokane Regional Clean Air Agency (SRCAA);))~~ the same as "Agency". ~~((or with regard to new source review, any other designated permitting agency.))~~

(15) *Begin Actual Construction or Establishment* means, in general, initiation of physical on-site construction activities on a ~~((n emissions unit, which))~~ new stationary source, emissions units, or control equipment that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(16) *Best Available Control Technology (BACT)* means an emission limitation, based on the maximum degree of reduction for each air pollutant subject to regulation under Chapter 70.94 RCW emitted from, or which results from, any new or modified stationary source, which the ~~((Authority))~~ Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such stationary source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of ~~((the "best available control technology"))~~ BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, ~~((and Part))~~ 61, 62, and 63. Emissions from any stationary source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act (FCAA) as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(17) *Best Available Control Technology for Toxics, or ((^m) Toxic Best Available Control Technology (tBACT) ((~~tBACT~~)))* means an emission limitation applied to each, or each mixture of, ~~((t))~~ Toxic ((a)) Air ((p)) Pollutants (TAPs) identified in ~~((WAC))~~ Chapter 173-460((-150 & 160)) WAC discharged, taking in account the potency, quantity, and toxicity of each TAP or mixture of TAPs discharged, in addition

to the meaning given for Best Available Control Technology (BACT) (~~((("BACT"))~~), herein.

(18) *Best Available Retrofit Technology (BART)* means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(19) *Board* means Board of Directors of the Spokane Regional Clean Air Agency (SRCAA).

(20) *Brake Horsepower* means the measure of an engine's horsepower without the loss in power caused by the gearbox, alternator, differential, water pump, and other auxiliary components.

(21) *Bubble* means a set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, under RCW 70.94.155 and WAC 173-400-120.

(22) *Burn Out Oven* means any oven used to clean or remove dirt, grease, grime, paint, varnish, or any other unwanted substance or contaminant, from any object by using controlled incineration, without burning the object itself. A burn out oven is considered an incinerator under Article VI, Section 6.03.

(23) *Closure, Closed* ~~((or Shutdown))~~ means permanently stopping or terminating all processes that produce air contaminant emissions at a stationary source or emissions unit.

~~((1. Except as provided for in subsections 3., 4., and 5., whether a closure or shutdown was permanent depends on the intention of the owner and operator at the time of the closure or shutdown, as determined from all facts and circumstances, including the cause of the closure or shutdown and whether registration fees have been paid;~~

~~2. A closure or shutdown lasting two or more years is presumed to be permanent, except that this presumption does not apply in the case of a temporary/portable stationary source operating under a valid permit to operate as provided for in Article V, Section 5.08 of this Regulation;~~

~~3. A closure or shutdown is permanent, if the owner or operator files a "Source Closure Notification Form", as provided for in Article IV, Section 4.02 of this Regulation. Failure to file such a report does not mean that closure or shutdown was temporary and not permanent.~~

~~4. If the owner/operator of the stationary source, fails to pay registration fees for one year or more, then the stationary source is considered permanently closed.~~

~~5. A closure or shutdown lasting five or more years is considered permanent even if registration fees have been paid and even in the case of temporary/portable stationary sources.))~~

~~((Certified Observer means a person who has met the requirements, pursuant to 40 CFR 60, Appendix A, Method 9.))~~

~~((Class I Area means any area designated under Section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:~~

- ~~1. Alpine Lakes Wilderness;~~
- ~~2. Glacier Peak Wilderness;~~
- ~~3. Goat Rocks Wilderness;~~
- ~~4. Mount Adams Wilderness;~~
- ~~5. Mount Rainier National Park;~~
- ~~6. North Cascades National Park;~~
- ~~7. Olympic National Park;~~
- ~~8. Pasayten Wilderness; and~~
- ~~9. Spokane Indian Reservation.))~~

~~(24) Combustion and Incineration Unit means ((an emissions)) units using combustion for waste disposal, steam production, chemical recovery, or other process requirements; excluding outdoor burning.~~

~~(25) Commence((#)) as applied to construction, means that the owner or operator has all the necessary preconstruction approvals or permits, and either has:~~

~~((1.))a) Begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or~~

~~((2.))b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.~~

~~(c) For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the State Implementation Plan (SIP).~~

~~(26) Concealment means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.~~

~~(27) Construction means any physical change or change in method of operation (including fabrication, erection, ((or)) installation, demolition, or modification of an emissions unit ((of a stationary source)), which would result in a change in actual emissions.~~

~~(28) Control Equipment means any ((equipment)) facility, device, or apparatus, which has the primary function of regulating, reducing, or controlling emissions from a process, fuel burning or refuse burning equipment, and thus reduces the formation of, or the emission of, air contaminants into the ((atmosphere, or both)) ambient air.~~

~~(29) Control Officer means the Air Pollution Control Officer for the Spokane Regional Clean Air Agency (SRCAA) or ((his/her duty)) authorized representative.~~

~~(30) Criteria Pollutant means a pollutant for which there is established a National Ambient Air Quality Standard (NAAQS) in 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter (PM₁₀ and PM_{2.5}), ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).~~

~~(31) Daylight Hours means the hours between official sunrise and official sunset.~~

~~(32) Director means the same as "Control Officer".~~

~~(33) Ecology means the Washington State Department of Ecology.~~

~~(34) Electronic Means means email, fax, FTP site, or other electronic method approved by the Agency.~~

~~(35) Emission means a release of air contaminants into the ambient air.~~

~~(36) Emission Point means the point at which emissions are released into the ambient air, such as, but not limited to; a duct, vent, stack, pipe, or other opening to the ambient air.~~

~~(37) Emission Reduction Credit (ERC) means a credit granted((#)) by the ((Authority)) Agency, to a stationary source for a voluntary reduction in actual emissions per WAC 173-400-131.~~

~~(38) Emission Standard and Emission Limitation means a requirement established under the Federal Clean Air Act (FCAA) or Chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the ((Federal Clean Air Act)) FCAA or Chapter 70.94 RCW.~~

~~(39) Emissions Unit means any part of a stationary source or source which emits, or would have the potential to emit, any pollutant subject to rules and regulation(s) ((pursuant to)) per the Federal Clean Air Act (FCAA), the Washington State Clean Air Act (WCAA), Chapter 70.94 RCW ((Chapter 70.94 RCW)), the Washington Nuclear Energy and Radiation Act, Chapter 70.98 RCW ((Chapter 70.98 RCW)), or the ((Authority)) Agency. This term does not include non((-))road engines.~~

~~(40) Episode means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as given in RCW 70.94.715.~~

~~(41) Excess Emissions means emissions of an air pollutant in excess of any applicable emission standards.~~

~~(42) Executive Director means the same as "Control Officer".~~

~~(43) Facility means the same as "Stationary Source".~~

~~(44) Federal Clean Air Act (FCAA) means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 USC ((U.S.C.)) 7401 et seq., as amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990 and subsequent amendments.~~

~~((Federal Class I Area means any federal land that is classified or reclassified Class I. The following areas are federal Class I areas in Washington state:~~

- ~~1. Alpine Lakes Wilderness;~~
- ~~2. Glacier Peak Wilderness;~~
- ~~3. Goat Rocks Wilderness;~~
- ~~4. Mount Adams Wilderness;~~
- ~~5. Mount Rainier National Park;~~
- ~~6. North Cascades National Park;~~
- ~~7. Olympic National Park; and~~
- ~~8. Pasayten Wilderness.))~~

~~((Federal Land Manager means the secretary of the department with authority over federal lands in the United~~

States. This includes, but is not limited to, the U.S. Department of the Interior – National Park Service, the U.S. Department of Agriculture – Forest Service, and/or the U.S. Department of the Interior – Bureau of Land Management.)

(45) Federally Enforceable means all limitations and conditions which are enforceable by the Environmental Protection Agency (EPA), including those requirements developed ~~((pursuant to))~~ under 40 CFR Parts 60, 61, 62, and 63; requirements within the Washington State Implementation Plan (SIP), requirements within any permit established under 40 CFR 52.21 or ~~((or))~~ Order of ~~((a))~~ Approval under a SIP approved new source review regulation, or any voluntary limits on emissions in an Order issued under ~~((pursuant to))~~ WAC 173-400-091.

(46) Fire Protection Agency means a city fire department, county fire department, local fire protection district, or the Washington State Department of Natural Resources (DNR).

(47) Fuel Burning Equipment means equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of any type of fuel.

(48) Fugitive Dust means particulate emissions made airborne by forces of wind, human activity, or both. Unpaved roads, construction sites, and tilled land are examples of sources of fugitive dust. Fugitive dust is a type of fugitive emission.

(49) Fugitive Emissions means emissions ~~((which))~~ that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(50) Garbage means putrescible animal or vegetable waste resulting from the handling, preparation, cooking or serving of food.

(51) Good Engineering Practice (GEP) ~~((; as used in Chapter 173-400 WAC, refers to))~~ means a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(52) Hazardous Air Pollutant (HAP) means any air pollutant listed in Section 112(b) of the Federal Clean Air Act (FCAA), 42 USC, Section 7412.

(53) Heat Input means the maximum actual or design fuel capacity, whichever is greater, state in British thermal units (Btu) per hour for the stationary source and will be expressed using the higher heating value of the fuel unless otherwise specified.

(54) Incinerator means a furnace used primarily for the thermal destruction of waste, including human and pet crematories, burn-out ovens, and other solid, liquid, and gaseous waste incinerators.

(55) In Operation, Operation, or Operating means engaged in activity related to the primary design function of the stationary source.

(56) Installation means the act of ~~((installing, which means))~~ placing, assembling or constructing process equipment or control equipment at the premises where the equipment will be used. Installation includes all preparatory work at such premises.

(57) Like-kind Replacement means replacement of existing components (emissions units, control equipment, etc.) with similar, equivalent, or comparable, new components

(e.g. components that have the same throughput capacity, control efficiency, or utilization factor as the old component.

(58) Lowest Achievable Emission Rate (LAER) means for any stationary source, that rate of emissions which reflects the more stringent of:

~~((1-))~~(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed new or modified stationary source demonstrates that such limitations are not achievable; or

~~((2-))~~(b) The most stringent emission limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source.

~~((3-))~~(c) In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable New Source Performance Standards (NSPS).

(59) Maintenance Area means a geographical area within the jurisdiction of SRCAA which was formerly designated as a nonattainment area and which has been re-designated as an attainment area as provided under Section 107(d) of the Federal Clean Air Act (FCAA). The maintenance area designation shall be in effect as long as there is a federal or state requirement to have a maintenance plan in effect.

~~((Major Modification, as it applies in nonattainment areas, is defined in WAC 173-400-112-))~~

~~((Major Modification, as it applies in attainment or unclassified areas, is defined in WAC 173-400-113-))~~

~~((Major Stationary Source, as it applies in nonattainment areas, is defined in WAC 173-400-112-))~~

~~((Major Stationary Source, as it applies in attainment or unclassified areas, is defined in WAC 173-400-113-))~~

(60) Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(61) Masking means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

(62) Materials Handling means the handling, transporting, loading, unloading, storage, or transfer of materials with no significant chemical or physical alteration.

(63) Modification means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, ~~((Title))~~ 42 USC, ~~((United States Code (USC-))~~) and with rules implementing that section.

(64) Multiple-Chambered Incinerator means any incinerator consisting of two (2) or more combustion chambers in series, employing adequate design parameters necessary for maximum combustion of the material to be burned.

(65) National Ambient Air Quality Standard (NAAQS) means an ambient air quality standard set by the Environmental Protection Agency (EPA) at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

(66) National Emission Standards for Hazardous Air Pollutants (NESHAP) means the federal rules in 40 CFR Part 61.

(67) National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories means the federal rules in 40 CFR Part 63. These rules are commonly referred to as Maximum Available Control Technology (MACT) standards.

~~(Net Emissions Increase, as it applies to stationary sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.)~~

~~(Net Emissions Increase, as it applies to stationary sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.)~~

(68) New Source means one or more of the following:

~~(1-)(a)~~ (1-)(a) The construction or modification of a ~~(("))~~stationary source~~(("))~~ that increases the amount of any air contaminant emitted by such ~~(("))~~stationary source~~(("))~~ or that results in the emission of any air contaminant not previously emitted;

~~(2-)(b)~~ (2-)(b) Any other project that constitutes a new source under the Federal Clean Air Act (FCAA);

~~(3-)(c)~~ (3-)(c) Restart of a ~~(("))~~stationary source~~(("))~~ after ~~(permanent shutdown, or) closure;~~

~~(4-)(d)~~ (4-)(d) Relocation of a ~~(("))~~stationary source~~(("))~~ to a new location;~~(, except in the case of portable stationary sources operating under a valid "permit to operate" as provided in Article V, Section 5.08.A.2 through 5.08.A.5.))~~

(e) Like-kind replacement of existing emissions unit(s) with a like-kind emission unit(s) (e.g. boilers, crushing equipment); or

(f) A portable source subject to the requirements in Article V, Section 5.08.

~~(New Stationary Air Contaminant Source, as used in this Regulation, means the same as "new source".)~~

(69) New Source Performance Standards (NSPS) means the ~~(F))~~federal rules in 40 CFR Part 60.

(70) Nonattainment Area means a geographic area designated by the Environmental Protection Agency (EPA) at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standards (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

(71) Nonroad Engine means:

~~(1-)(a)~~ (1-)(a) Except as provided in ~~(2- of this subsection))~~Article I, Section 1.04 (A)(71)(b), a nonroad engine is any internal combustion engine:

~~(a-))1.~~ (a-))1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); ~~((a-))~~

~~(b-))2.~~ (b-))2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

~~((e-))3.~~ ((e-))3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Methods of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

~~((2-))b)~~ ((2-))b) An internal combustion engine is not a nonroad engine if:

~~((a-))1.~~ ((a-))1. The engine is used to propel a motor vehicle, ~~((a-))~~ a vehicle used solely for competition, or is subject to standards promulgated under Section 202 of the Federal Clean Air Act (FCAA); ~~((a-))~~

~~((b-))2.~~ ((b-))2. The engine is regulated by a New Source Performance Standard (NSPS) promulgated under Section 111 of the FCAA; or

~~((e-))3.~~ ((e-))3. The engine otherwise included in ~~((4-e. of this subsection))~~ Section 1.04 (A)(71)(a)3 remains or will remain at a location for more than twelve (12) consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and ~~((that))~~ is intended to perform the same or similar function as the engine replaced, will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two (2) years) and that operates at that single location approximately three (3) months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

(72) North American Industry Classification System (NAICS) means the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

(73) Notice of Construction (NOC) Application ~~((a- Notice of Construction and Application for Approval))~~ means a written application to ~~((permit))~~ allow construction of a new source, modification of an existing stationary source, or replacement or substantial alteration of control technology at an existing stationary source. ~~((Affected activities include, but are not limited to, equipment modifications or alterations, changes to process or control equipment, establishment of emission limits, installation of "new sources," control technology determinations, PSD determinations (by Ecology), and other items specified by the Authority.))~~

(74) Odor means that property of a substance, which allows its detection by the sense of smell or through the use of instruments designed for that purpose.

(75) Opacity means the degree to which an object seen through a plume is obscured, stated as a percentage.

~~((Outdoor Burning or Open Burning means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion in a manner approved by the Agency. For the purposes of this Regulation, "Outdoor burning" means all types of outdoor burning except agricultural burning and silvicultural burning (RCW 70.94.743))~~

(76) Order means any order issued by Ecology or the ~~((Authority))~~ Agency ~~((pursuant to))~~ under Chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, 70.94.154, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, permit, permission to operate, compliance schedule order, consent order, order of denial, notice of violation, and regulatory order.

(77) Order of approval ~~((approval order or Permit))~~ means a regulatory order issued by Ecology or the ~~((Authority))~~ Agency to approve the Notice of Construction (NOC) Application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

(78) Outdoor Burning or Open Burning means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(79) Owner or Operator means any person(s) who owns, leases, supervises, operates, or is in control of real property or a stationary or a portable source.

(80) Ozone ~~((#))~~ Depleting ~~((s))~~ Substance means any substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

(81) Particulate Matter or Particulates means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than one hundred (100) micrometers.

(82) Particulate Matter Emissions means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air, as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40 Chapter I of the Code of Federal Regulations (CFR) or by a test method specified in the State Implementation Plan (SIP).

(83) Parts per Million by Volume (ppmv) means parts of a contaminant per million parts of gas or carrier medium, by volume, exclusive of water or particulate matter.

(84) Parts per Million by Weight (ppmw) means parts of a contaminant per million parts of gas or carrier medium, by weight.

(85) ~~((Permit to Operate.))~~ Permission to Operate ~~((and Temporary or Portable Permit))~~ means a regulatory order issued by ~~((Ecology or))~~ the ~~((Authority))~~ Agency to approve the ~~((Notice of Intent to Install and Operate a Temporary Source))~~ Portable Source Permit (PSP) Application for the operation and relocation of a proposed ~~((temporary or))~~ portable ~~((stationary))~~ source in Spokane County.

(86) Permitting Authority or Permitting agency means Ecology or the ~~((Authority))~~ Agency with jurisdiction over the source. ~~((, except that Ecology is the permitting agency pursuant to WAC 173-400-141 (PSD) and for air pollution sources that have been retained by Ecology's Industrial Sector, pursuant to RCW 70.94.422, in Spokane County.))~~

(87) Person means an individual, firm, public or private corporation, owner, owner's agent, operator, contractor, limited liability company, association, partnership, political subdivision, municipality, or government agency.

(88) PM_{2.5} means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers (microns or μ) as measured by a refer-

ence method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(89) PM_{2.5} Emissions means finely-divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers (microns or μ) emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the State Implementation Plan (SIP).

(90) PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (microns or μ) as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(91) PM₁₀ emissions means finely-divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (microns or μ) emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the State Implementation Plan (SIP).

(92) Pollution Control Hearings Board of Washington (PCHB) means the body established under Chapter 43.21 RCW to adjudicate hearings pertaining to decisions and orders of the ~~((Authority))~~ Agency.

(93) Portable ~~((Stationary))~~ Source means a type of stationary source ~~((consisting of one or more emission units that is portable or transportable (excluding non-road engines)))~~ that emits ~~((pollutants))~~ air contaminants only while at a fixed location but which is capable of being transported to various locations. Examples include a portable asphalt plant or a portable package boiler. ~~((at a specific site for a brief period and then moves to another site(s) and emits pollutants for a brief period and that is established at any specific site for less than 12 consecutive months. Portable equipment includes, but is not limited to: portable rock crushers, portable asphalt plants, portable concrete batch plants and each of their auxiliary emissions producing equipment). The act of installing a portable source at a particular site is considered to be the construction of a new source or modification of an existing source and therefore is subject to the requirements of new source review the first time that the Portable Stationary Source locates in Spokane County; thereafter, the Portable Stationary Source is subject to the requirements of Sections 5.08.A.2 through 5.08.A.5 of this Regulation. A Portable Stationary Source is a subset of Temporary Stationary Source.))~~

(94) Portable Source Permit (PSP) Application means a written application to allow the operation or relocation of a proposed portable source in Spokane County.

(95) Potential-to-((e))Emit (PTE) means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as

part of its design only if the limitation or the effect it would have on emissions is ~~((federally))~~ enforceable. Secondary emissions are not included in determining the ~~((potential to emit))~~ PTE of a stationary source.

(96) Prevention of Significant Deterioration (PSD) means the program set forth in WAC 173-400-~~((141))~~ 700 through 750.

(97) Reasonably Available Control Technology (RACT) means the lowest emission limit that a particular stationary source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual stationary source or source category, taking into account the impact of the stationary source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any stationary source or source category shall be adopted only after notice and opportunity for comment are afforded. ~~((RACT shall apply to existing stationary sources.))~~

(98) Refuse means putrescible and non-putrescible solid wastes including, but not limited to, garbage, rubbish, ashes, incinerator residue, dead animals, abandoned automobiles, solid market wastes, street cleanings, and solid commercial and industrial waste (including waste disposal in industrial salvage).

(99) Regulatory Order means an order issued ~~((to a stationary air contaminant source))~~ by Ecology~~((;))~~ or the ~~((Authority))~~ Agency~~((, which subjects that stationary source to))~~ that requires compliance with any applicable provisions of Chapter 70.94 RCW, or the rules and regulations adopted thereunder.

(100) Secondary Emissions means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions. This includes emissions from any offsite-support facility which would not be generated without the construction or operation of the major stationary source or major modification. Emissions which come directly from a mobile source such as a motor vehicle, train, or vessel are not secondary emissions. ~~((Secondary emissions may include, but are not limited to:))~~

~~((1. Emissions from ships or trains located at the new or modified stationary source; and~~

~~2. Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.))~~

~~((Significant:~~

~~1. As it applies to new sources in nonattainment areas, is defined in WAC 173-400-112.~~

~~2. As it applies to new sources in attainment or unclassified areas, is defined in WAC 173-400-113.~~

3. As it applies to stationary air contaminant sources subject to Articles IV and X of this Regulation, means:

a. Increased emissions of 10 tons per year of any one toxic air pollutant or hazardous air pollutant; or,

b. Increased emissions of a combined 25 tons per year of two or more toxic air pollutants or hazardous air pollutants; or,

c. In reference to a net emissions increase or the stationary source's potential to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:))

~~((Pollutant and Emissions Rate~~

~~Carbon monoxide: 100 tons per year (tpy)~~

~~Nitrogen oxides: 40 tpy~~

~~Sulfur dioxide: 40 tpy~~

~~Particulate matter (PM): 25 tpy of PM emissions~~

~~15 tpy of PM-10 emissions~~

~~Volatile organic compounds: 40 tpy~~

~~Fluorides: 3 tpy~~

~~Lead: 0.6 tpy~~

~~Sulfuric acid mist: 7 tpy~~

~~Hydrogen sulfide (H₂S): 10 tpy~~

~~Total reduced sulfur (including H₂S): 10 tpy~~

~~Reduced sulfur compounds (including H₂S): 10 tpy~~

~~Municipal waste combustor organics: (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) 3.2 grams per year (0.112 oz. per year or 49 grains per year)~~

~~Municipal waste combustor metals: (measured as particulate matter) 14 megagrams per year (15 tpy)~~

~~Municipal waste combustor acid-gases: (measured as sulfur dioxide and hydrogen chloride) 36 megagrams per year (40 tpy)~~

~~Municipal solid waste landfill emissions: (measured as nonmethane organic compounds) 45 megagrams per year (50 tpy)~~

~~Ozone-depleting substances (in effect on the date listed in Article II, Section 2.13 of this Regulation): 100 tpy~~

~~((d. Regardless of the definition in GGGG.3, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification which constructs a stationary air contaminant source within 10 kilometers of a Class I area, and has an ambient air quality impact on such area equal to, or greater than, 1 microgram~~

per cubic meter (twenty-four hour average), demonstrated through an Authority approved dispersion model.))

(101) Shutdown means the cessation of operation of a source or portion of a source for any purpose.

(102) Silvicultural Burning means burning on unimproved land the Department of Natural Resources (DNR) protects ((pursuant to)) under RCW ((70.94.030(20), 70.94.660, 70.94.690 and pursuant to)) 70.94.030(21), 70.94.6534, 70.94.6540, and Chapter 76.04 RCW.

(103) Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. ((Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.))

(104) Source category means all sources of the same type or classification.

(105) Spokane Regional Clean Air Agency (SRCAA) means the local air pollution agency empowered to enforce and implement the Federal Clean Air Act (FCAA), 42 USC 7401 et seq., the Washington Clean Air Act (WCAA), Chapter 70.94 RCW, and SRCAA Regulation I, in Spokane County, Washington State.

(106) Stack means any point in a stationary source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(107) Stack Height means the height of an emission point measured between the ground-level elevation at the base of the stack and where the emissions exit the stack.

(108) Stage I Vapor Recovery means the capture of all gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a transport tank into a stationary storage tank, except motor vehicle refueling. ((Regulations relating to Stage I vapor recovery are found in Chapter 173-491 WAC.))

(109) Stage II Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a stationary storage tank into a motor vehicle fuel tank. ((Regulations relating to Stage II vapor recovery are found in Chapter 173-491 WAC.))

(110) Standard Conditions means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.

(111) Standard Cubic Foot of Gas means that amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 68°F.

(112) Startup means the setting in operation of a source or portion of a source for any purpose.

(113) State Implementation Plan (SIP) or Washington SIP means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan, and compliance schedules approved and promulgated by the Environmental Protection Agency (EPA), for the purpose of implementing, maintain-

ing, and enforcing the National Ambient Air Quality Standards (NAAQS).

((Stationary Air Contaminant Source means the same as "Stationary source".))

(114) Stationary Source means any building, structure, facility, or installation that emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes, or from a nonroad engine, or nonroad vehicle, as defined in Section 216(11) of the Federal Clean Air Act (FCAA).

(115) Synthetic Minor (SM) means any ((stationary)) source whose potential-to-emit has been limited below applicable ((major stationary source)) thresholds by means of an ((federally)) enforceable order, rule, or ((permit)) approval condition.

((Temporary Stationary Source means a stationary source consisting of one or more emission units that is portable or transportable (excluding non-road engines) that emits pollutants at a specific site for a brief period and then not again for the foreseeable future and that is established at any site for less than 12 consecutive months. A temporary stationary source includes, but is not limited to: a temporary boiler, while a permanent boiler is undergoing maintenance; fugitive dust emissions associated with the construction of a new building; non-stationary stump grinders and each of their auxiliary emissions producing equipment). The act of installing a Temporary Stationary Source at a particular site may or may not be considered to be the construction of a new source or modification of an existing source and therefore may or may not be subject to the requirements of new source review.))

(116) Total Actual Annual Emissions means the total of all criteria and toxic air pollutant emissions for the most recent complete year that is available to the ((Authority)) Agency.

(117) Total Reduced Sulfur (TRS) means the sum of the mass of sulfur compounds, hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides, emitted and measured by Environmental Protection Agency (EPA) Method 16 in Appendix A to 40 CFR Part 60 or an approved equivalent method, and expressed as hydrogen sulfide.

(118) Total Suspended Particulate (TSP) means the mass of particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

(119) Toxic Air Pollutant (TAP) or Toxic Air Contaminant means any ((Class A or B)) toxic air pollutant listed in ((WAC 173-460-150 and 173-460-160)) Chapter 173-460 WAC. The term toxic air pollutant may include particulate matter and volatile organic compounds, if an individual substance or a group of substances within either of these classes is listed in ((WAC 173-460-150 and/or 173-460-160)) Chapter 173-460 WAC. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

((Upset Condition means a failure, breakdown, or malfunction of any piece of process equipment or pollution control equipment that causes, or has the potential to cause, excess emissions.))

(120) Unclassifiable Area means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard (NAAQS) for the criteria pollutant and that is listed by the Environmental Protection Agency (EPA) at 40 CFR Part 81.

(121) United States Environmental Protection Agency (USEPA) or (EPA) means the federal agency empowered to enforce and implement the Federal Clean Air Act (FCAA), 42 USC 7401, et seq. ((shall be referred to as EPA.))

(122) Upset Condition means a failure, breakdown, or malfunction of any piece of process equipment or pollution control equipment that causes, or has the potential to cause, excess emissions.

(123) Vent means any opening through which air pollutants are exhausted into the ambient air.

(124) Visibility Impairment means any humanly perceptible change in visibility (light extinction, visual range, contrast, or coloration) from that which would have existed under natural conditions.

~~((Visibility Impairment of Class I Areas means visibility impairment within the Class I area and visibility impairment of any formally designated integral vista associated with the Class I area.))~~

(125) Volatile Organic Compound (VOC) means ((any carbon compound that participates in atmospheric photochemical reactions)) the same as defined in 40 CFR 51.100 for the purposes of Regulation I.

~~((1. Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro 1,1,1,2,2-pentafluoropropane (HCFC-225ea); 1,3-dichloro 1,1,2,2,3-pentafluoropropane (HCFC-225eb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mcc); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ea); 1,1,2,3,3-pentafluoropropane (HFC-245eb); 1,1,1,2,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro 1-fluoroethane (HCFC-151a); 1,2-dichloro 1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-~~

~~ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OC2H5); methyl acetate and perfluoro-carbon compounds that fall into these classes:~~

~~a. Cyclic, branched, or linear completely fluorinated alkanes;~~

~~b. Cyclic, branched, or linear completely fluorinated ethers with no saturations;~~

~~c. Cyclic, branched, or linear completely fluorinated tertiary amines with no saturations; and~~

~~d. Sulfur-containing perfluorocarbons with no saturations and with sulfur bonds only to carbon and fluorine.~~

~~2. For the purpose of determining compliance with emission limits, VOC is measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly reactive compounds are excluded as VOC, if the amount of the compounds is accurately quantified, and the exclusion is approved by the Authority, or EPA.~~

~~3. As a precondition to excluding these negligibly reactive compounds as VOC or at any time thereafter, the Authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Authority, the amount of negligibly reactive compounds in the stationary source's emissions.))~~

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 1.05 ACRONYM INDEX

acfm Actual Cubic Feet per Minute
 ACM Asbestos-Containing Material
 ACWM Asbestos-Containing Waste Material
 AHERA Asbestos Hazard Emergency Response Act
 AOP Air Operating Permit
 ASTM American Society for Testing and Materials
 AWP Alternate Work Plan
 BACT Best Available Control Technology
 BART Best Available Retrofit Technology
 bhp Brake Horse Power
 Btu British Thermal Unit
 C Celsius
 CFR Code of Federal Regulations
 CO Carbon Monoxide
 DNR Department of Natural Resources
 DNS Determination of Nonsignificance
 DS Determination of Significance
 EFSEC Energy Facility Site Evaluation Council
 EIS Environmental Impact Statement
 e-NOI Electronic Notice of Intent
 EPA Environmental Protection Agency, same as USEPA
 ERC Emissions Reduction Credit
 F Fahrenheit
 FCAA Federal Clean Air Act
 G Gram
 gal Gallon
 GEP Good Engineering Practices
 GOA General Order of Approval

HAP Hazardous Air Pollutant
 HEPA High Efficiency Particulate Air
 hr Hour
 HVLP High Volume, Low Pressure
 kg Kilogram
 LAER Lowest Achievable Emission Rate
 L Liter
 lb Pound
 LIEAP Low Income Energy Assistance Program
 LPG Liquid Petroleum Gas
 LVLP Low Volume, Low Pressure
 mm Millimeter
 MACT Maximum Achievable Control Technology
 MDNS Mitigated Determination of Nonsignificance
 NAAQS National Ambient Air Quality Standards
 NAICS North American Industry Classification System
 NOC Notice of Construction
 NESHAP National Emission Standards for Hazardous
 Air Pollutants
 NOI Notice of Intent
 NOV Notice of Violation
 NO₂ Nitrogen Dioxide
 NO_x Nitrogen Oxide
 NSPS New Source Performance Standards
 NSR New Source Review
 O₃ Ozone
 Pb Lead
 PCHB Pollution Control Hearings Board
 PLM Polarized Light Microscopy
 PM Particulate Matter
 PM_{2.5} Particulate Matter 2.5
 PM₁₀ Particulate Mater 10
 POTWs Private and Publicly Owned Treatment Works
 ppmv Parts Per Million by Volume
 ppmw Parts Per Million by Weight
 psia Pounds per Square Inch Absolute
 psig Pounds per Square Inch Gauge
 PSD Prevention of Significant Deterioration
 PSP Portable Source Permit
 PTE Potential to Emit
 RACT Reasonable Available Control Technology
 RCW Revised Code of Washington
 SEPA State Environmental Policy Act
 SIC Standard Industrial Classification
 SIP State Implementation Plan
 SCAPCA Spokane County Air Pollution Control
 Authority
 SM Synthetic Minor
 SNAP Spokane Neighborhood Action Partners
 SO₂ Sulfur Dioxide
 SQER Small Quantity Emission Rate
 SRCAA Spokane Regional Clean Air Agency
 TAC Toxic Air Contaminant
 TAP Toxic Air Pollutant
 tBACT Toxic Best Available Control Technology
 TRS Total Reduced Sulfur
 TSI Thermal System Insulations
 TSP Total Suspended Particulate
 USC United States Code

USEPA United State Environmental Protection Agency,
 same as EPA
 VOC Volatile Organic Compound
 WAC Washington Administrative Code
 WCAA Washington Clean Air Act
 WISHA Washington Industrial Safety and Health Act
 yr Year

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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AMENDATORY SECTION

SECTION 2.01 POWERS AND DUTIES OF THE BOARD

~~((A-))~~(A) Board Procedures and Actions. Pursuant to, and consistent with, the provisions of the Washington Clean Air Act (WCAA) Chapter 70.94 RCW, the Board shall establish such procedures and take such action as may be required to implement SRCAA Regulation I, Article I, Section 1.01 (~~(of this Regulation)~~). The Board may take such action as may be necessary to prevent air pollution, including control and measurement of the emission of any air contaminant from a source. The Board shall appoint a Control Officer, competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of all ordinances, orders, resolutions, rules, and regulations of this (~~(Authority)~~) Agency, pertinent to the control and prevention of air pollution in Spokane County.

~~((B-))~~(B) Hearings. The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of (~~(this)~~) Regulation I and in connection therewith; issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

~~((C-))~~(C) Ordinances, Resolutions, Rules, Orders and Regulations. The Board shall have the power to adopt, amend, and repeal its own ordinances, resolutions, rules, orders, and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, orders and regulations shall be made after due consideration at a public hearing held in accordance with Chapter 42.30 RCW, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, (~~(or)~~) orders, and regulations as soon as adopted by the Board. (See RCW 70.94.141)

AMENDATORY SECTION

SECTION 2.02 CONTROL OFFICER'S DUTIES AND POWERS

~~((A-))~~(A) Control Officer and Authorized Representative. The Control Officer and (~~(for his)~~) authorized representatives shall observe and enforce the provisions of the (~~(Washington Clean Air Act)~~) WCAA and all orders, ordinances, resolutions, rules, and regulations of the (~~(Authority)~~) Agency pertaining to the control and prevention of air pollution (~~(pursuant)~~) according to the policies set forth by the Board.

~~((B-))~~(B) Employees. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance

of the duties assigned, ~~((to him))~~ and to incur necessary expenses within the limitations of the budget.

~~((C))~~(C) Records and Reports. The Control Officer shall maintain appropriate records and submit reports as required by the Board, Ecology, and EPA.

~~((D))~~(D) Consultants. The Control Officer may engage, at the ~~((Authority's))~~ Agency's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity, or degree of any air contaminants which are or may be discharged from any source within the ~~((Authority's))~~ Agency's jurisdiction.

~~((E))~~(E) Right of Entry. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer, Ecology, or their ~~((duty))~~ authorized representatives shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer, Ecology, or their ~~((duty))~~ authorized representative who requests entry for the purpose of inspecting~~((on))~~, and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection.

~~((F))~~(F) Samples. If an Agency authorized ~~((employee))~~ representative, ~~((of the Authority, during the course of an inspection))~~ desires to obtain a sample of air contaminant, fuel, process material, or other material, that affects or may affect the emission of air contaminants, ~~((he/she))~~ the authorized representative shall notify the owner or ~~((lessee))~~ operator of the time and place of obtaining a sample, so the owner or ~~((lessee))~~ operator has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized representative of the ~~((Authority))~~ Agency shall give a receipt to the owner or ~~((lessee))~~ operator for the sample obtained.

~~((G))~~(G) Enforcement. The Control Officer shall be empowered by the Board to sign official complaints, ~~((or))~~ issue citations, ~~((or))~~ initiate court suits, or use other legal means to enforce the provisions of the ~~((Authority's))~~ Agency's Regulation.

~~((H))~~(H) Information and Analyses from the Source. The Control Officer or ~~((his/her duty))~~ authorized representative may obtain, from the owner or operator of a ~~((n air contaminant))~~ source, information or analyses that discloses the nature, extent, or quantity of air contaminants which are, or may be, discharged by such a ~~((n air contaminant))~~ source, and the control equipment in use on such ~~((air contaminant))~~ source.

~~((I))~~(I) Access. The Control Officer or ~~((his/her duty))~~ authorized representative may require that safe access and adequate sampling facilities be provided to the ~~((Authority))~~ Agency by the owner or operator of a ~~((n air contaminant))~~ source that is to be tested.

(J) Source Records. The Control Officer or authorized representative may require the owner or operator of a source to provide copies of any records, including but not limited to, maintenance plans, maintenance records, equipment operation manuals, process information, production information, and material usage information.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION
SECTION 2.03 CONFIDENTIAL OR PROPRIETARY INFORMATION ~~((SEE RCW 70.94.205))~~

The ~~((Authority))~~ Agency implements and enforces RCW 70.94.205 - Confidentiality of records and information.

AMENDATORY SECTION
SECTION 2.04 VIOLATIONS ~~((SEE RCW 70.94.211))~~

The ~~((Authority))~~ Agency implements and enforces RCW 70.94.211 - Enforcement actions by air authority - Notice to violators.

AMENDATORY SECTION
SECTION 2.05 ORDERS AND HEARINGS ~~((SEE RCW 70.94.221))~~

The ~~((Authority))~~ Agency implements and enforces RCW 70.94.221 - Order final unless appealed to pollution control hearings board.

AMENDATORY SECTION
SECTION 2.06 APPEAL OF BOARD ORDERS

~~((A))~~(A) Appeal. Any order issued by the ~~((b))~~ Board or by the ~~((e))~~ Control Officer, shall become final unless such order is appealed to the ~~((hearings board))~~ PCHB as provided in ~~((e))~~ Chapter 43.21B RCW. This is the exclusive means of appeal of such an order.

~~((B))~~(B) Stay. The Control Officer may stay the effectiveness of an order during the pendency of such an appeal. At any time during the pendency of such an appeal of such an order to the PCHB, the appellant may apply to the PCHB ~~((pursuant to))~~ as provided in Chapter 43.21B RCW and Chapter 371-08 WAC for a stay of the order or for the removal thereof.

~~((C))~~(C) Action. Upon failure to comply with any final order of the Board or Control Officer, the Agency's attorney ~~((for the Authority))~~, upon request of the Board or Control Officer, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary.

AMENDATORY SECTION
SECTION 2.07 STATUS OF ORDERS OF APPEAL ~~((RESERVED))~~
(Repealed 3/4/04, Res. 04-01)

AMENDATORY SECTION
SECTION 2.08 FALSIFICATION OF STATEMENTS OR DOCUMENTS, AND TREATMENT OF DOCUMENTS

~~((A))~~(A) False, Misleading Statements. No person shall willfully make a false or misleading statement to the Board or their authorized representative as to any matter within the jurisdiction of the Board.

~~((B))~~(B) Alter Documents. No person shall reproduce or alter, or cause to be reproduced or altered, any order, registration certificate, or other paper issued by the ~~((Authority))~~ Agency if the purpose of such reproduction or alteration is to circumvent, evade, or violate any provision of Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

~~((C))~~(C) Available for Review. Any order or registration certificate required to be obtained by Chapter 70.94

RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto, shall be available for review on the premises designated on the order or certificate.

~~((D-))~~(D) Notice to be Displayed. In the event the ~~((Authority))~~ Agency requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the ~~((Authority))~~ Agency.

~~((E-))~~(E) False Statements. No person shall make any false material statement, representation, or certification in any form, ~~((in any))~~ notice or report required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

~~((F-))~~(F) Render Inaccurate. No person shall render inaccurate any monitoring device or method required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION SECTION 2.09 SOURCE TESTS

~~((A-))~~(A) Purpose. ~~((This))~~ SRCAA Regulation I, Article II, Section 2.09, establishes test methods, notification, performance, and reporting requirements for all source tests ~~((and combustion tests))~~ performed to determine compliance with applicable air quality regulations, ~~((and/or))~~ emission standards, or both.

~~((B-))~~(B) Applicability. This Section applies to any source test performed on sources established or operated in Spokane County that will be submitted to the Agency for regulatory purposes. Tests performed on gasoline dispensing facilities are exempt from the requirements of this ~~((s))~~ Section, unless otherwise required by the Agency.

~~((Combustion tests performed on fuel burning equipment shall meet the requirements of Section 2.09.K-))~~

(C) Test Methods. To demonstrate compliance, the Agency may conduct or require that the owner or operator of a source conduct a test using approved test methods from 40 CFR Parts 51, 60, 61, 62, 63, 75, and 1065, as in effect on the date identified in Article II, Section 2.13; or procedures contained in Ecology's "Source Test Manual - Procedures for Compliance Testing". Alternative methods may be used, provided the method(s) has been approved by the Agency and EPA prior to performing the test. The Agency may require the operator of a source to provide the necessary platform and sampling ports for the Agency or others to perform a test of an emissions unit. The source owner or operator must allow the Agency to obtain a sample from any emission unit. The Agency will give the operator of the source an opportunity to observe the sampling and to obtain a sample at the same time.

~~((C-))~~(D) Definitions. In addition to the definitions given in ~~((SRCAA Regulation I,))~~ Article I, Section 1.04, and unless a different meaning is clearly required by context, words and phrases used in this Section ~~((shall))~~ will have the following meaning:

~~((1- Combustion test means a test performed on fuel burning equipment, using a combustion analyzer, for pur-~~

poses of analyzing the combustion products produced by the equipment.

2- Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or improper operation are not malfunctions.

3- Regulated pollutant means any air contaminant regulated under the Federal Clean Air Act, the Washington Clean Air Act, Washington Administrative Code, and/or SRCAA regulations.)

~~((4-))~~(1) Regulatory ~~((p))~~Purposes means to determine compliance with an applicable air quality regulation or emission standard or as otherwise required by the Agency.

~~((5- Representative operating conditions means the range of combined process, production, and control measure conditions under which the source normally operates or will normally operate (regardless of the frequency of the conditions). Operations during startup, shutdown, and malfunctions do not constitute representative operating conditions.))~~

~~((6-))~~(2) Source ~~((t))~~Test means any testing performed at a source that measures:

~~((i-))~~(a) ~~((t))~~The amount or concentration of an ~~((regulated))~~ air pollutant, air pollutants, or surrogates being emitted;

~~((ii-))~~(b) ~~((t))~~The capture efficiency of a capture system; ~~((and/))~~or

~~((iii-))~~(c) ~~((t))~~The destruction or removal efficiency of a control device used to reduce emissions. Combustion tests and data accuracy assessments of continuous emission monitoring systems (i.e., relative accuracy tests, cylinder gas audits, etc.) are not considered source tests.

~~((D- Test Methods. Testing of sources for regulatory purposes shall be performed in accordance with U.S. Environmental Protection Agency (EPA) approved methods as found in 40 CFR Parts 51, 60, 61, and 63, as in effect on the date identified in SRCAA Regulation I, Article II, Section 2.13. Alternative methods may be used, provided the method(s) has been approved by the Agency and/or EPA prior to performing the test.))~~

~~((E-))~~(E) Test Notifications and Plans. At least fifteen (15) calendar days prior to performing the source test, a test notification and plan ~~((shall))~~ must be submitted in writing by either hard copy, facsimile or email; to the Agency for review and written approval. This notification requirement does not relieve the source from any other notification requirements under ~~((S))~~state or ~~((F))~~federal law. ~~((Test notifications and plans shall be submitted in writing by either hard copy, facsimile, or e-mail.))~~ The fifteen (15) ~~((-))~~ day submittal requirement may be waived upon receipt of written Agency approval. The test plan ~~((shall))~~ must include, unless otherwise specified in writing by the Agency, the following information:

~~((1-))~~(1) Facility name, mailing address, and source location;

~~((2-))~~(2) Facility contact name(s), email address(es), and telephone number(s);

~~((3-))~~(3) Source testing company name, company contact name(s), email address(es), and telephone number;

~~((4-))~~(4) Source testing schedule and date(s);

~~(5-)~~(5) Source description including a description of the pollution control device and sample locations;

~~(6-)~~(6) Pollutant(s) to be measured;

~~(7-)~~(7) Test methods;

~~(8-)~~(8) Number of test runs and length of each individual test run;

~~(9-)~~(9) A description of what constitutes representative process and control conditions for the source to be tested (i.e., production rate, etc.). This ~~(shall)~~ will include the expected process and control conditions (including production rate) during testing;

~~(10-)~~(10) Applicable process and~~(/or)~~ production information to be collected during the source test;

~~(11-)~~(11) Control device operating parameters to be monitored during the source test;

~~(12-)~~(12) Fuel and~~(/or)~~ raw material samples (if applicable), type of analysis, how the samples will be collected, and who will collect the samples;

~~(13-)~~(13) Timeline for submittal of the final test report to ~~(SRCAA)~~ the Agency; and

~~(14-)~~(14) Any other testing information required by the Agency.

(F) Approved Test Plan. Once approved, the ~~(source test)~~ plan ~~(shall)~~ must be followed. Changes to approved plans may be implemented upon receipt of written Agency approval prior to completion of the source test. Test plan modification requests may be submitted in writing by either hard copy, facsimile, or e~~(-)~~mail. ~~(SRCAA)~~ The Agency may require a new series of tests for test plan modifications submitted after initiation of the tests and prior to completion of the tests.

~~(F-)~~(G) Test Procedures.

~~(1-)~~(1) The source test ~~(shall)~~ must consist of a minimum of three (3) individual runs, unless otherwise required in the test method or written Agency approval is given for an alternative testing scenario prior to performing the source test.

~~(2-)~~(2) The individual pollutant test runs for any source test ~~(shall)~~ must be performed consecutively, with no overlap of any test runs for the same pollutant. Test runs may overlap provided the overlapping test runs are not for testing the same pollutant or are not being performed using the same test method. Each consecutive test run ~~(shall)~~ must be initiated as soon as practicable after completion of the previous test run, unless written Agency approval is given for an alternative testing scenario prior to performing the source test.

~~(3-)~~(3) During each source test, the source to be tested ~~(shall)~~ must be operated as described in the approved source test plan, unless an alternative operating scenario is approved by the Agency in writing prior to performing the source test. Upon acceptance of the source test, the source will be limited to no more than 110% of the average production rate that the source operated during that source test, unless otherwise allowed by regulation or Agency issued Order.

(4) The source test must be conducted on a weekday(s) during daylight hours, unless otherwise approved by the Agency.

~~(G-)~~(H) Stoppages.

~~(1-)~~(1) A source test may be stopped only because of safety reasons,~~(or)~~ testing ~~(and/)~~ or process equipment

malfunction that occurred during the source test and identified at the time the test is stopped. The testing ~~(shall)~~ must be resumed as soon as practicable. A source test may not be stopped solely due to the expected or known failure of one or more test runs to meet applicable standards.

~~(2-)~~(2) The Agency ~~(shall)~~ must be notified of any test stoppage ~~(as soon as practicable, but)~~ no later than the next working day (i.e., Monday through Friday, excluding legal holidays observed by the Agency).

~~(3-)~~(3) The reason for the test stoppage ~~(shall)~~ must be documented and included in the source test report. All test data collected during a stopped test shall be included in the source test report. The Agency will evaluate the reason for the stoppage and determine if it meets the stoppage provisions in Section 2.09~~(-G-1-)~~(H)(1).

~~(H-)~~(I) Invalidation of Test Results. For any test results that are found or considered to be invalid, due to stoppages, sampling or analysis problems or errors, or other reasons, the invalid data must be included in the test report. The reason that the test results were invalidated ~~(shall)~~ must be documented and included in the test report. The Agency will evaluate the reason for the test results invalidation and determine whether to accept or reject the source test results.

~~(I-)~~(J) Postponements~~(/and)~~ Rescheduling. A source test ~~(shall)~~ must not be postponed ~~(and/)~~ or rescheduled without prior Agency notification. Postponement notifications for a scheduled source test ~~(shall)~~ must include the reason(s) for the requested postponement and the date of the rescheduled source test. Postponement and~~(/or)~~ rescheduling notifications ~~(shall)~~ must be made by telephone or submitted in writing by either hard copy, facsimile, or e~~(-)~~mail. Within two (2) working days after a telephone notification is made, a written notification must be submitted by either hard copy, facsimile, or e~~(-)~~mail.

~~(J-)~~(K) Test Reports.

~~(1-)~~(1) Reports of all source tests performed under ~~(this section)~~ Section 2.09 ~~(shall)~~ must be submitted to the Agency regardless of the source test results (i.e., failure to meet an emission limit or standard, test stoppage, equipment malfunction, test data invalidation, etc.).

~~(2-)~~(2) Source test reports ~~(shall)~~ must be submitted to the Agency as described in the approved test plan, unless an alternative test report submittal timeline has received written Agency approval.

~~(3-)~~(3) The source test report ~~(shall)~~ must, at a minimum, include the following information:

~~(a-)~~(a) Source testing company name, company contact name(s), and phone number;

~~(b-)~~(b) Facility name, mailing address, and source location;

~~(c-)~~(c) Facility contact name(s), email address(es), and telephone number(s);

~~(d-)~~(d) Description of the source and the sampling locations;

~~(e-)~~(e) Date(s) of the source test;

~~(f-)~~(f) Summary of results, reported in units and averaging periods consistent with the applicable emission standard;

~~(g-)~~(g) Length, in minutes, of each individual test run, including start and end times for each individual test run;

~~((h-))~~(h) Description of any test stoppages and re-starts, and the reasons for each test stoppage;

~~((i-))~~(i) Description of any deviations from the approved source test plan and the reason for the deviation;

~~((j-))~~(j) Description of the test methods and quality assurance procedures employed;

~~((k-))~~(k) Operating parameters and production data for the source and control equipment during the test, as specified in the approved test plan under Section 2.09 ~~(E)~~(10)-(12) ~~(E-10-12)~~);

~~((l-))~~(l) Company name, contact name, email address, and telephone number of the laboratory processing any samples;

~~((m-))~~(m) All field data collected and example calculations;

~~((n-))~~(n) Any reasons for considering a test run(s) to be invalid;

~~((o-))~~(o) Any reasons for objection of use of a test run(s) for regulatory purposes;

~~((p-))~~(p) A statement signed by the responsible official of the testing company certifying the validity of the source test report; and

~~((q-))~~(q) Any other information specified ~~((and/))~~ or required by the Agency in the approved test plan.

~~(K. Combustion Tests. Unless otherwise required by the Agency, combustion tests performed on fuel burning equipment for regulatory purposes shall meet all of the following requirements:~~

~~1. The Agency shall be notified at least two working days prior to performing the combustion test, unless an alternative notification timeline is approved the Agency.~~

~~2. The fuel burning equipment shall be operated at high fire during the combustion test. The combustion test shall be performed under representative operating conditions for the equipment.~~

~~3. The combustion test equipment shall be capable of analyzing for the pollutant to be measured.~~

~~4. Immediately prior to the test, the combustion analyzer shall be calibrated using the analyzer manufacturer's recommended calibration procedures. During each combustion test, the following operational parameters shall be measured and recorded:~~

~~a. Concentration (ppmv) of the measured pollutant in the exhaust gases;~~

~~b. Exhaust gas temperature;~~

~~e. Percent oxygen for each pollutant concentration reading; and~~

~~d. Average load for the fuel burning equipment tested or parametric conditions which correlate to load (e.g. fuel feed rate).~~

~~5. A report documenting the results of each combustion test shall be submitted to SRCAA within 30 calendar days of each test, unless an alternative test report submittal timeline has been approved the Agency. The report shall include:~~

~~a. Calibration report for the combustion analyzer, including the calibration method and type and concentration of each gas used to calibrate the combustion analyzer;~~

~~b. Summary of the measured pollutant emissions given in ppmv and corrected to 3% oxygen, unless a different correction is required by regulation or Agency issued Order;~~

~~e. Parameters listed under Section 2.09.K.5 above; and
d. Copies of actual data sheets-))~~

AMENDATORY SECTION

SECTION 2.10 SEVERABILITY

If any phrase, clause, subsection or section of ~~((this))~~ SRCAA Regulation I shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board would have enacted ~~((the))~~ Regulation I without the phrase, clause, subsection, or section so held unconstitutional or invalid and the remainder of ~~((the))~~ Regulation I shall not be affected as a result of said part being held unconstitutional or invalid.

AMENDATORY SECTION

SECTION 2.11 ~~((SEE RCW 70.94.430) CRIMINAL))~~ PENALTIES, ~~((RCW 70.94.431-434))~~ CIVIL PENALTIES, AND ~~((RCW 70.94.435-436))~~ ADDITIONAL MEANS FOR ENFORCEMENT ~~((RCW))~~

The ~~((Authority))~~ Agency implements and enforces ~~((Chapter))~~ RCW 70.94.430 - Penalties, RCW 70.94.431 - Civil penalties, ~~((&))~~ and RCW 70.94.435 - Additional means of enforcement ~~((RCW))~~.

AMENDATORY SECTION

SECTION 2.12 RESTRAINING ORDERS - INJUNCTIONS ~~((SEE RCW 70.94.425))~~

The ~~((Authority))~~ Agency implements and enforces RCW 70.94.425 - Restraining orders- Injunctions.

AMENDATORY SECTION

SECTION 2.13 FEDERAL AND STATE REGULATION REFERENCE DATE

~~((A. Whenever federal laws or regulations are referenced in this Regulation, the effective date shall be the most recent date of either July 1, 2006, unless otherwise noted or the applicable adoption date listed in:~~

~~1. WAC 173-400-115 for standards presented in 40 CFR Part 60 and Appendices, which is hereby adopted by reference;~~

~~2. WAC 173-400-075(1) for standards presented in 40 CFR Part 61 and Appendices, which is hereby adopted by reference; or~~

~~3. WAC 173-400-075 (6)(a) for standards presented in 40 CFR Part 63 and Appendices, which is hereby adopted by reference-))~~

(A) Federal Adoption by Reference. Federal rules in SRCAA Regulation I are adopted as they exist on January 1, 2020.

(1) The term "Administrator" means the Administrator of EPA or the Control Officer of the Agency.

(2) Where EPA has delegated to the Agency the authority to receive reports, the affected facility will submit reports to the Agency, unless otherwise instructed.

(B) State Adoption by Reference. State rules in Regulation I are adopted as they exist on January 1, 2020, or as amended, unless a different date is listed in Section 2.14.

AMENDATORY SECTION

SECTION 2.14 WASHINGTON ADMINISTRATIVE CODES (WACS)

~~((A-))~~(A) The ~~((Authority))~~ Agency ~~((implements and enforces))~~ adopts by reference the following ~~((Washington State))~~ WACs:

(1) Chapter 173-400 WAC, including sections:

020 - Applicability.

030 - Definitions.

(a) The following definitions are adopted by reference:

Adverse Impact on Visibility; Alternative Emission Limit; Capacity Factor; Class I Area; Dispersion Technique; Emission Threshold; Excess Stack Height; Existing Stationary Facility; Federal Class I Area; Federal Land Manager; Fossil Fuel-fired Steam Generator; General Process Unit; Greenhouse Gases; Hog Fuel; Industrial Furnace; Mandatory Class I Federal Area; Natural Conditions; Projected Width; Reasonably Attributable; Sulfuric Acid Plant; Transient Mode of Operation; Useful Thermal Energy; Wigwam/Silo Burner; Wood-fired Boiler; and Wood Waste

040 - General standards for maximum emissions.

(a) Exceptions. The following subsections are not adopted by reference: 040(6) and 040(8). 040(6) is replaced by Article VI, Section 6.04(C). 040(8) is replaced by Article VI, Section 6.07.

050 - Emission standards for combustion and incineration units.

(a) Exceptions. The following subsections are not adopted by reference: 050 (4)(c)(ix) and 050 (5)(c)(xi).

060 - Emission standards for general process units.

070 - Emission standards for certain source categories.

075(8) - Emission standards for perchloroethylene dry cleaners.

081 - Emission limits during startup and shutdown.

082 - Alternative emission limit that exceeds an emission standard in the SIP

091 - Voluntary limits on emissions.

105 - Records, monitoring, and reporting.

(a) Exceptions. The following subsections are not adopted by reference: 105(3, 4, 6, and 8)

107 - Excess emissions.

108 - Excess emission reporting.

109 - Unavoidable excess emissions.

112 - Requirements for new sources in nonattainment areas - Review for compliance with regulations.

113 - New sources in attainment or unclassifiable areas - Review for compliance with regulations.

114 - Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.

116 - Increment protection.

117 - Special protection requirements for federal Class I areas.

118 - Designation of Class I, II, and III areas.

120 - Bubble rules.

131 - Issuance of emission reduction credits.

136 - Use of emission reduction credits (ERC).

151 - Retrofit requirements for visibility protection.

161 - Compliance schedules.

175 - Public information.

180 - Variance.

190 - Requirements for nonattainment areas.

200 - Creditable stack height and dispersion techniques.

205 - Adjustment for atmospheric conditions.

210 - Emission requirements of prior jurisdictions.

220 - Requirements for board members.

240 - Criminal penalties.

260 - Conflict of interest.

560 - General order of approval.

700 - Review of major stationary sources of air pollution.

710 - Definitions.

720 - Prevention of significant deterioration (PSD).

(a) Ecology and EFSEC are the EPA-approved permitting agencies for the PSD program for Washington under the SIP. The Agency enforces PSD permits.

730 - Prevention of significant deterioration application processing procedures.

740 - PSD permitting public involvement requirements.

750 - Revisions to PSD permits.

800 - Major stationary source and major modification in a nonattainment area.

810 - Major stationary source and major modification definitions.

(a) Exceptions. The following definition is not adopted by reference: (13) lowest achievable emission rate.

820 - Determining if a new stationary source or modification to a stationary source is subject to these requirements.

830 - Permitting requirements.

840 - Emission offset requirements.

850 - Actual emissions plant wide applicability limitation (PAL).

860 - Public involvement procedures.

~~((1- Chapter 173-400 WAC—General regulations for air pollution sources~~

~~a. Except for the following sections;~~

~~1) Source Registration~~

~~(a) WAC 173-400-100—Source classifications~~

~~(b) WAC 173-400-102—Scope of registration and reporting requirements~~

~~(i) SRCAA Regulation I, Article IV, replaces the registration requirements in WACs 173-400-100 & 102 for all air pollution sources in Spokane County.~~

~~2) Stationary, portable and temporary source permitting~~

~~(a) WAC 173-400-035—Portable and temporary sources;~~

~~(i) SRCAA Regulation I, Article V, Sections 5.02.A.9, 5.02.I, and 5.08 replace the permitting requirements in WAC 173-400-035 for all portable and temporary sources in Spokane County.~~

~~(b) WAC 173-400-110—New source review;~~

~~(i) SRCAA Regulation I, Article V replaces the permitting requirements in WAC 173-400-110 for all new stationary sources installed or operated in Spokane County.~~

~~3) Fees (SRCAA has its own fee structure):~~

~~(a) WAC 173-400-045—Control technology fees;~~

~~(i) SRCAA Regulation I, Article X, Sections 10.07 replaces the review fees in WAC 173-400-045 for performing a Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.154 in Spokane County.~~

~~(b) WAC 173-400-104—Registration fees;~~

~~(i) SRCAA Regulation I, Article X, Sections 10.06 replaces registration fees assessed in WAC 173-400-104 for each air pollution source registered with SRCAA.~~

~~(e) WAC 173-400-116—New source review fees;~~

~~(i) SRCAA Regulation I, Article X, Sections 10.07 replaces the fees assessed in WAC 173-400-116 to each facility that installs or operates a new air pollution source in Spokane County.~~

4) Prevention of significant deterioration (PSD) program

~~(a) WAC 173-400-730 Prevention of significant deterioration application processing procedures;~~

~~(b) WAC 173-400-740 PSD permitting public involvement requirements; and~~

~~(c) WAC 173-400-750 Revisions to PSD permits.~~

~~(i) Ecology administers the Prevention of significant deterioration program (PSD); however, SRCAA enforces it in Spokane County.)~~

~~((2-))~~(2) Chapter 173-401 WAC - Operating ~~((P))~~ permit ~~((R))~~ regulation.

~~((3-))~~(3) Chapter 173-425 WAC - Outdoor burning.

~~((4-))~~(4) Chapter 173-430 WAC - Agricultural burning.

~~((5-))~~(5) Chapter 173-433 WAC - Solid fuel burning devices.

~~((6-))~~(6) Chapter 173-434 WAC - Solid waste incinerator facilities.

~~((7-))~~(7) Chapter 173-435 WAC - Emergency episode plan.

~~((8-))~~(8) Chapter 173-460 WAC - Controls for new sources of toxic air pollutants.

~~((9-))~~(9) Chapter 173-476~~((θ))~~ WAC - Ambient air quality standards. ~~((for particulate matter))~~

~~((10. Chapter 173-474 WAC - Ambient air quality standards for sulfur oxides))~~

~~((11. Chapter 173-475 WAC - Ambient air quality standards for carbon monoxide, ozone, and nitrogen dioxide))~~

~~((12-))~~(10) Chapter 173-490 WAC - Emission standards and controls for sources emitting volatile organic compounds (VOC).

~~((13-))~~(11) Chapter 173-491 WAC - Emission standards and controls for sources emitting gasoline vapors.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION SECTION 2.15 INTIMIDATION

~~((A-))~~(A) No person shall, directly or indirectly, assault, intimidate, threaten, harass, coerce or unlawfully imprison the Control Officer or the ~~((Control Officer's))~~ authorized representative. The following definitions apply to this Section:

~~((1-))~~(1) "Assault" includes, but is not limited to, actions constituting assault under RCW 9A.36 *et seq.*

~~((2-))~~(2) "Intimidate" includes, but is not limited to, actions that discourage, restrain or deter action by inducing fear.

~~((3-))~~(3) "Threaten" includes, but is not limited to, actions constituting threats under RCW 9A.76.180(3) and 9A.04.110(28).

~~((4-))~~(4) "Harassment" includes, but is not limited to, actions constituting harassment under RCW 9A.46.020(1).

~~((5-))~~(5) "Coercion" includes, but is not limited to, actions constituting coercion under RCW 9A.36.070(1).

~~((6-))~~(6) "Unlawful ~~((t))~~ Imprisonment" includes, but is not limited to, restricting a person's movements without consent and without legal authority in manner which interferes substantially with his or her liberty as described in RCW 9A.40.010(6).

~~((B-))~~(B) For any person found to have violated Article II, Section 2.15(A)~~((A-))~~, the Agency may issue a separate ~~((Notice of Violation))~~ NOV to the full extent authorized by Section 2.02(G)~~((G-))~~ and Section 2.11 of ~~((this))~~ SRCAA Regulation I.

~~((C-))~~(C) A ~~((Notice of Violation))~~ NOV under this Section may be issued regardless of a criminal charge or conviction related to the same conduct.

~~((D-))~~(D) The civil penalty for a violation of this Section shall be \$5,000.00. Requests for mitigation of a ~~((Notice of Violation))~~ NOV issued under this Section shall be referred to and decided by the Board ~~((of Directors))~~.

NEW SECTION

SECTION 2.16 40 CFR PART 60 - STANDARDS OF PERFORMANCE FOR NEW SOURCES (NSPS)

(A) The Agency Adopts by Reference:

(1) 40 CFR Part 60 and its Appendices in effect on the date referenced in SRCAA Regulation I, Article II, Section 2.13.

(a) Subpart III and Subpart JJJ are only adopted as they apply to a stationary source located at a source subject to Chapter 173-401 WAC (Air operating permit regulation).

(2) Exceptions. The following sections and subparts of 40 CFR Part 60 are not adopted by reference:

(a) 40 CFR 60.5 (determination of construction or modification);

(b) 40 CFR 60.6 (review of plans);

(c) 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), Subparts C, Cb, Cc, Cd, Ce, BBBB, DDDD, FFFF, MMMM, UUUU (emission guidelines); and

(d) 40 CFR Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

NEW SECTION

SECTION 2.17 40 CFR PART 61 - NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

(A) The Agency Adopts by Reference:

(1) 40 CFR Part 61 and its Appendices in effect on the date referenced in SRCAA Regulation I, Article II, Section 2.13.

(a) The Agency may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Parts 61, 62, 63 and 65, as applicable, in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(b) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must confirm with the requirements of 40 CFR Parts 51, 60, 61, 62, 63, and 65, as applicable.

(2) Exceptions. Section 2.17 does not apply to any source operating under a waiver granted by EPA, or an exemption granted by the president of the United States.

NEW SECTION

SECTION 2.18 40 CFR PART 63 - NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS) FOR SOURCE CATEGORIES

(A) Major Source of Hazardous Air Pollutants. The Agency adopts by reference 40 CFR Part 63 and Appendices as they apply to major sources of hazardous air pollutants, in effect on the date referenced in SRCAA Regulation I, Article II, Section 2.13.

(B) Nonmajor Sources of Hazardous Air Pollutants.

(1) The Agency adopts by reference these subparts of 40 CFR Part 63 and Appendices, in effect on the date referenced in Section 2.13. The stationary sources affected by these subparts of 40 CFR Part 63 are subject to Chapter 173-401 (Operating permit regulation).

- (a) Subpart X, Secondary lead smelting;
- (b) Subpart EEE, Hazardous waste incineration;
- (c) Subpart LLL, Portland cement;
- (d) Subpart IIII, Mercury cell chlor-alkali plants;
- (e) Subpart YYYYY, Stainless and nonstainless steel manufacturing (electric arc furnace);
- (f) Subpart EEEEE, Primary copper smelting;
- (g) Subpart FFFFF, Secondary copper smelting;
- (h) Subpart GGGGG, Primary nonferrous metal;
- (i) Subpart MMMMM, Carbon black production;
- (j) Subpart NNNNN, Chromium compounds;
- (k) Subpart SSSSS, Pressed and blown glass manufacturing;
- (l) Subpart VVVVV, Chemical manufacturing for synthetic minors; and
- (m) Subpart EEEEEEE, Gold mine ore processing and production.

(2) The Agency adopts by reference 40 CFR Part 63 and Appendices, in effect on the date referenced in Section 2.13, as they apply to a stationary source located at a source subject to Chapter 173-401 WAC (Operating permit regulation).

(3) The Agency adopts by reference these subparts of 40 CFR Part 63 and Appendices, in effect on the date referenced in Section 2.13, as they apply to area sources of hazardous air pollutants.

- (a) Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;
- (b) Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;
- (c) Subpart T, National Emission Standards for Halogenated Solvent Cleaning;
- (d) Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production; and
- (e) Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers.

(C) Source Testing.

(1) The Agency may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regu-

lated under 40 CFR Parts 61, 62, 63 and 65, as applicable, in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(2) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must confirm with the requirements of 40 CFR Parts 51, 60, 61, 62, 63, and 65, as applicable.

NEW SECTION

SECTION 2.19 40 CFR PART 65 - CONSOLIDATED FEDERAL AIR RULE

(A) The Agency Adopts by Reference:

(1) 40 CFR Part 65 in effect on the date referenced in SRCAA Regulation I, Article II, Section 2.13.

AMENDATORY SECTION

SECTION 4.01 REGISTRATION REQUIRED

(A) Stationary Source Registration. The ~~((Authority))~~ Agency regulates the classes of stationary sources and source categories~~(s)~~ listed in ~~((Exhibit R))~~ SRCAA Regulation I, Article IV, Section 4.04, under the authority of RCW 70.94.-151. A stationary source~~(s)~~ listed in ~~((Exhibit R))~~ Section 4.04, whether publicly or privately owned, ~~((shall))~~ must register with the ~~((Authority))~~ Agency, unless exempted under Article IV, Section 4.03 ~~((of this Article))~~.

(B) Purpose. The registration program allows the Agency to maintain a current and accurate record of air contaminant sources. Information collected through registration is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

(C) Registration Program Components.

(1) Initial registration and annual or other periodic reports from stationary source owner or operator.

(2) On-site inspections necessary to verify compliance with registration requirements.

(3) Data storage and retrieval systems necessary for support of the registration program.

(4) Emission inventory reports and emission reduction credits computed from information provided by source owner/operator under the registration requirements.

(5) Staff review, including engineering analysis for accuracy and current information provided by source under the registration program.

(6) Clerical, administrative, and other office support of the registration program.

AMENDATORY SECTION

SECTION 4.02 GENERAL REQUIREMENTS FOR REGISTRATION

~~((A-))~~(A) Registration ((Responsibility)) Required. The owner~~(s)~~ or operator~~(s)~~ ~~((or a designated agent))~~ of a stationary source~~(s)~~ ~~((shall))~~ must register ~~((said))~~ the stationary source with the Agency annually. The owner or operator is responsible for timely submission of accurate and complete registration information and fees, except those stationary sources exempted under Section 4.03~~((of this Article, by obtaining proper forms from the Authority or using an alternative to forms when required by the Authority. The owner and operator of the stationary source are responsible for reg-~~

istration and for timely submitting accurate and complete registration information.)

~~(B-)~~(B) Registration Information. The owner or operator is responsible for notifying the Agency of the existence of the source. The owner(;) or operator(, or designated agent shall) must register each emissions unit(, including quantifiable fugitive air emissions,) located at the stationary source, including quantifiable fugitive air emissions. The owner(;) or operator(, or designated agent shall) must provide information ((to the Authority,) as may be required by the ((Authority)) Agency, concerning location, size, and height of air contaminant outlets, processes employed, nature of the air contaminant emission, and such other information, as is relevant to air pollution. The owner(;) or operator(, or designated agent shall) must submit updated registration information at least annually as required by the ((Authority)) Agency, using Agency prepared and furnished forms, ((forms provided by the Authority)) unless the ((Authority)) Agency ((provides) approves in writing an alternative format or ((requires an alternate)) method of reporting. ((registration information. The forms provided by the Authority shall) Submission must be received((completed and returned to the Authority)) within forty-five (45) days of the issue date or request, unless the Agency specifies otherwise.

~~(C-)~~(C) Signature. The owner(;) or operator(, or the designated agent for such owner or operator shall) must sign each registration submission ((form unless the Authority provides in writing an alternative format or requires an alternate method of reporting registration information)) verifying ((that)) the information on the form is ((to his or her knowledge,) complete and accurate.

(D) Fees. The owner or operator must submit registration fees according to SRCAA Regulation I, Article X.

~~(D-)~~(E) ((Reporting requirements for transfer or change of ownership of registered stationary sources.)) Reporting Requirements for Transfer, Business Name Change, or Change of Ownership.

~~(1-)~~(1) ((The new)) An owner or operator(;) that changes the business name of a registered stationary source, assumes ownership of a registered stationary source, and/or assumes operational control of a registered stationary source, ((shall) must report ((any)) the changes ((of ownership or change of operator)) to the ((Authority)) Agency, on Agency prepared and furnished forms, within ninety (90) days of ((completing transfer of ownership and/or assuming operational control. The new owner or operator shall report)) the change, ((on "Change of Ownership Forms" provided by the Authority. The report shall contain the following information:

- a. Legal name of the company prior to transfer;
- b. Site address;
- c. Previous owner's name;
- d. New legal name of company (if different)
- e. New owner's name;
- f. New owner's mailing address;
- g. New owner's phone number;
- h. Effective date of the transfer;
- i. Description of the affected emission units; and
- j. New owner's or responsible agent's signature.)

~~(2-)~~(2) Any liability for fee payment, including payment of delinquent fees and other penalties ((shall) will survive any transfer of ownership and become the legal obligation of the new owner or operator. ((of a stationary source.))

~~(E-)~~ ((Reporting requirements for permanent shutdown of registered stationary sources.))

((1. The owner or operator shall file a "Source Closure Notification Form" with the Authority within ninety (90) days after the owner or operator determines that operations, producing air contaminant emissions have permanently ceased. The report shall contain the following information:

- a. Legal name of the company prior to closure or shut-down;
- b. Stationary source address;
- c. Effective date of the stationary source closure or emissions unit shutdown;
- d. Description of the affected emission units; and
- e. Owner's or responsible agent's signature.)

((2. In the event of a permanent closure, process and pollution control equipment may remain in place and on site, but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation.))

~~(F-)~~ New Sources.

1. The owner or operator of a stationary source shall file a Notice of Construction and Application for Approval, in accordance with Article V of this Regulation, prior to establishing any new or modified stationary source. An approved Notice of Construction and Application for Approval suffices to meet the initial requirement to register the stationary source. Registration information shall be updated annually thereafter.

2. Prior to re-opening a closed stationary source, or establishing a new source at a site for which the Authority has received a "Source Closure Notification Form", the proponent shall contact the Authority for a determination as to whether a Notice of Construction and Application for Approval must be filed with, and approved by, the Control Officer, per the requirements of Article V of this Regulation, prior to operation.)

(F) Operation and Maintenance Plan. Emissions units and control equipment at registered stationary sources must be operated as designed and kept in good operating condition.

(1) Stationary sources must have an operation and maintenance plan for the emissions units and control equipment. The plan must include written operating instructions and maintenance schedules which follow manufacturer recommendations or good industrial practice. The plan must be available on-site within ninety (90) days of initial registration or within twelve (12) months from the effective date of Section 4.02 revisions (09/01/2020), whichever is later. The plan must be provided to the Agency upon request.

(2) Records demonstrating compliance with the plan must be kept for the most recent twenty-four (24) months. Records must be provided to the Agency upon request.

(3) Equipment with operation and maintenance requirements specified in a written Order of Approval from the Agency are exempt from the requirements of Section 4.02(F).

AMENDATORY SECTION

SECTION 4.03 REGISTRATION EXEMPTIONS

~~((A-))~~(A) Exemptions.

(1) Air Operating Permit Sources (AOP). Stationary sources subject to Chapter 173-401 WAC (air operating permit sources) and that meet requirements in SRCAA Regulation I, Article V are exempt from the registration requirements of ~~((this))~~ Article IV, Section 4.02.

~~((B-))~~(2) Grain Handling Facilities:

~~((a))~~(a) That handle less than or equal to ten (10) million bushels of grain annually. If registration has been made under the registration requirements in Section 4.02, and a registration fee ~~((has been))~~ paid, these facilities do not need to pay ongoing annual registration fees or meet other registration requirements as long as the ((for a)) stationary source continues to meet the criteria listed below (1. - 3.). The stationary source is subject to all other applicable requirements of Regulation I. ~~((that))~~

1. ~~((i))~~(i) Is properly classified as a grain warehouse or grain elevator (includes grain cleaning) under ~~((Standard Industrial Classification (SIC)))~~ SIC code 5153/NAICS ~~((422510))~~ 424510; ~~((, 1972, as amended by the 1977 Supplement, and that is))~~

2. Is licensed by the Department of Agriculture under Chapter 22.09 RCW or by the federal government for purposes similar to those of licensure under Chapter 22.09 RCW; ~~((and))~~

3. ~~((that h))~~ Handles less than or equal to ten (10) million bushels of grain annually; ~~((, registration or a registration fee shall not be required again unless the licensed capacity of the stationary source increases to greater than 10 million bushels of grain annually. The stationary source is subject to all other applicable requirements of this Regulation.))~~

~~((b))~~ That handles greater than ten (10) million bushels annually. If the licensed capacity increases to greater than ten (10) million ((bushes)) bushels of grain annually, registration under Section 4.02 ((shall)) must be ((made)) completed, and annual registration fee paid, prior to ((the date that the stationary source)) receiving((es)) grain from the first harvest season ((that occurs)) after the date of the increase in its licensed capacity. In addition, if required under Article V ~~((of this Regulation))~~, a ~~((Notice of Construction and))~~ NOC Application must ((for Approval shall)) be filed ((with and approved)) and an Order of Approval issued by the ((Authority)) Agency prior to increasing the licensed capacity of the stationary source to greater than ten (10) million ((bushes)) bushels of grain annually.

~~((C. Dwellings of Four Families or Less. Fuel burning equipment that serves dwellings of four or less families is exempt from the registration requirements of this Article.))~~

(3) Portable Sources. Portable sources that locate temporarily at a site in Spokane County and have received an approved Permission to Operate under Article V, Section 5.08 are exempt from registration requirements under Section 4.02.

(B) Exemption Documentation. The owner or operator of any source exempted from registration under Article IV must maintain documentation in order to verify that the source remains entitled to the exemption status and must present said documentation to an Agency authorized repre-

sentative upon request. The owner or operator of any source that is exempted from registration must immediately:

(1) Notify the Agency of the exceedance and register the facility upon discovery of exceeding de minimis levels given in Section 4.04, and

(2) Submit a NOC Application and receive an Order of Approval from the Agency per Article V.

(C) Compliance with SRCAA Regulation I. A source with an exemption from registration under Article IV will not be construed as an exemption from any other provision of Regulation I.

AMENDATORY SECTION

~~((EXHIBIT R-))~~ SECTION 4.04 STATIONARY SOURCES AND ~~((STATIONARY))~~ SOURCE CATEGORIES SUBJECT TO REGISTRATION~~((NOTE-))~~

(A) Subject to Registration. The following stationary sources and source categories are subject to registration. Emission rates in ~~((this))~~ SRCAA Regulation I, Article IV, Section 4.04 are based on uncontrolled PTE emissions, unless otherwise noted.

(1) Stationary sources or source categories subject to state requirements:

(a) Any stationary source that qualifies as a new major stationary source, or a major modification (173-400-820 WAC).

(b) Any modification to a stationary source that requires an increase either in a facility-wide emission limit or a unit specific emission limit.

(c) Any stationary source with significant emissions as defined in WAC 173-400-810.

(d) Any stationary source where the owner or operator has elected to avoid one or more requirements of the operating permit program established in Chapter 173-401 WAC, by limiting its PTE (synthetic minor) through an order issued by the Agency.

(2) Any stationary sources or source categories:

(a) Required to obtain an Order of Approval under Regulation I, Article V.

(b) Subject to GOA under Article V and WAC 173-400-560.

(c) For which the Control Officer determines that emissions of the stationary source, including fugitive emissions, are likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(3) Stationary sources with the following operations:

(a) Abrasive blasting operations, except portable blasting operations operating at a construction site, or at a site for less than thirty (30) days in any running twelve (12) month period and abrasive blasting operations that do not exhaust or release fugitive emissions to the ambient air.

(b) Acid production plants, including all acids listed in Chapter 173-460 WAC.

(c) Agricultural chemicals, manufacturing, mixing, packaging or other related air contaminant emitting operations (fertilizer concentrates, pesticides, etc.).

(d) Agricultural drying and dehydrating operations.

(e) Alumina processing operations.

(f) Ammonium sulfate manufacturing plants.

(g) Asphalt and asphalt products production operations (asphalt roofing and application equipment excluded).

(h) Brick and clay products manufacturing operations (tiles, ceramics, etc.). Noncommercial operations are exempt.

(i) Cattle feedlots with an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season.

(j) Chemical manufacturing operations.

(k) Coffee roasting operations.

(l) Composting operations except noncommercial agricultural and noncommercial residential composting activities.

(m) Concrete production operations and ready mix plants.

(n) Flexible polyurethane foam, polyester resin, and styrene production operations.

(o) Flexible vinyl operations and urethane coating operations.

(p) Fuel refining operations, blending operations, production operations, including alternative commercial fuel production facilities (e.g. ethanol, bio-diesel, etc.)

(q) Gasoline and aviation gas storage and dispensing, including:

1. Gasoline dispensing facilities, subject to Chapter 173-491 WAC, and aviation gas dispensing facilities with total gasoline storage capacities greater than 10,000 gallons; and

2. Bulk gasoline, and aviation gas terminals, bulk gasoline and aviation gas plants, and gasoline and aviation gas loading terminals.

(r) Grainhandling; seed, pea, and lentil processing facilities. Registration shall be in accordance with Article IV, Section 4.03.

(s) Haycubing or pelletizing operations established at a dedicated collection and processing site.

(t) Insulation manufacturing operations.

(u) Marijuana producers.

(v) Marijuana processors with direct processing of the marijuana plant and plant material (dry, cure, extract, compound, convert, package and label usable marijuana and marijuana concentrates.)

(w) Metalcasting facilities and foundries, ferrous.

(x) Metal casting facilities and foundries, nonferrous.

(y) Metal plating and anodizing operations.

(z) Metallurgical processing operations.

(aa) Mills; grain, seed, feed and flour production, and related operations.

(bb) Mills; lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, grass/stubble pressboard, pelletizing, or any combination thereof.

(cc) Mills; wood products manufacturing operations (including, but not limited to, cabinet works, casket works, furniture, and wood by-products).

(dd) Mineral processing (metallic and nonmetallic), including, but not limited to, rock crushing, sand and gravel mixing operations, except stand-alone rock, soil, or wood screening/conveying operations and blasting operations.

(ee) Mineralogical processing operations.

(ff) Natural gas transmission and distribution (SIC 4923/NAICS 486210 and 221210, respectively).

(gg) Paper manufacturing operations, except Kraft and sulfite pulp mills.

(hh) Perchloroethylene dry cleaning operations.

(ii) Pharmaceuticals production operations.

(jj) Plastics and fiberglass fabrication, including gelcoat, polyester resin, or vinylester coating operations using more than 55 gals/yr of all materials containing volatile organic compounds or toxic air pollutants.

(kk) Portland Cement production facilities.

(ll) Refuse systems (SIC 4953/NAICS 562213, 562212, 562211, and 562219, respectively), including municipal waste combustors; landfills with gas collection systems or flares; hazardous waste treatment, storage, and disposal facilities; and wastewater treatment plants other than POTWs.

(mm) Rendering operations.

(nn) Semiconductor manufacturing operations.

(oo) Sewerage systems, POTWs with a rated capacity of more than one million gallons per day (SIC 4952/NAICS 221320).

(pp) Stump and wood grinding established at a dedicated collection and processing site.

(qq) Surface coating, adhesive, and ink manufacturing operations.

(rr) Surface coating operations:

1. All motor vehicle or motor vehicle component surface coating operations; and

2. General surface coating operations with PTE emissions greater than 100 lbs/yr or with PTE toxic air pollutant emissions that exceed any SQER listed in Chapter 173-460 WAC.

(ss) Synthetic fiber production operations.

(tt) Synthetic organic chemical manufacturing operations.

(uu) Tire recapping operations.

(vv) Wholesale meat/fish/poultry slaughter and packing plants.

(4) Stationary sources with the following equipment:

(a) Fuel burning equipment, including but not limited to boilers, building and process heating units (external combustion) with per unit heat inputs greater than or equal to:

1. 500,000 Btu/hr using coal or other solid fuels with less than or equal to 0.5% sulfur;

2. 500,000 Btu/hr using used/waste oil, per the requirements of RCW 70.94.610;

3. 1,000,000 Btu/hr using kerosene, #1, #2 fuel oil, or other liquid fuel, including alternative liquid fuels (i.e., bio-diesel, biofuels, etc) except used/waste oil;

4. 4,000,000 Btu/hr using gaseous fuels, such as, natural gas, propane, methane, LPG, or butane, including but not limited to, boilers, dryers, heat treat ovens and deep fat fryers; or

5. 400,000 Btu/hr, wood, wood waste.

(b) Incinerators, including human and pet crematories, burn-out ovens, and other solid, liquid, and gaseous waste incinerators.

(c) Internal combustion engines

1. Used for standby, back-up operations only, and rated at or above 500 bhp.

2. Stationary internal combustion engines, other than those used for standby or back-up operations, rated at 100 bhp or more and are integral to powering a stationary source. This includes but is not limited to, rock crushing, stump and woodwaste grinding, and hay cubing operations.

(d) Particulate control at materials handling and transfer facilities that generate fine particulate and exhaust more than 1,000 acfm to the ambient air. This may include pneumatic conveying, cyclones, baghouses, or industrial housekeeping vacuuming systems.

(e) Storage tanks within commercial or industrial facilities, with capacities greater than 20,000 gallons and storing organic liquids with a vapor pressure equal to or greater than 1.5 psia at 68° F.

(5) Any stationary source or stationary source category not otherwise identified above, with uncontrolled emissions rates above those listed in (a) - (d):

(a) Any single criteria pollutant, or its precursors, as defined in 40 CFR 51.165, exceeding emission rates of 0.5 tons/yr, or in the case of lead, emissions rates greater than or equal to 0.005 tons/yr;

(b) TAPs with emission rates exceeding the SQER established in Chapter 173-460 WAC;

(c) Combined air contaminants (criteria pollutants, VOCs, or TAPs) in excess of one (1.0) ton/yr; or

(d) Combined TAPs and VOC emissions greater than 0.5 tons/yr.

(e) The criteria in Section 4.04 (A)(5)(a)-(d) applies to, but is not limited to, the following stationary source categories:

1. Bakeries;

2. Bed lining or undercoating production or application operations;

3. Degreasers/solvent cleaners, not subject to 40 CFR Part 63, Subpart T (Halogenated Solvent Cleaners); including, but not limited to, vapor, cold, open top, and conveyerized cleaner;

4. Distilleries;

5. Dry cleaning non-perchloroethylene operations;

6. Evaporators;

7. General surface coating operations that only use non-spray application methods (e.g., roller coat, brush coat, flow coat, or pre-packaged aerosol can);

8. Graphic art systems including, but not limited to, lithographic and screen printing operations;

9. Marijuana processors;

10. Organic vapor collection systems within commercial or industrial facilities, including fume hoods;

11. Ovens, furnaces, kilns and curing with emissions other than combustion emissions;

12. Plasma or laser cutters;

13. Soil and groundwater remediation operations;

14. Sterilizing operations, including, but not limited to EtO and hydrogen peroxide, and other sterilizing operations;

15. Utilities, combination electric and gas, and other utility services (SIC 493/NAICS 221111 through 221210, not in order given);

16. Welding, brazing, or soldering operations; or

17. Wood furniture stripping and treatment operations (commercial only).

~~((1. Acid production plants, including all acids listed in Chapter 173-460 WAC.~~

~~2. Abrasive blasting operations, except portable blasting operations operating at a construction site, or at a site for less than 30 days in any running 12-month period and operations that are inside a building and any associated air pollution control equipment that exhausts inside of the building.~~

~~3. Agricultural chemicals, manufacturing, mixing, packaging and/or other related air contaminant emitting operations (fertilizer concentrates, pesticides, etc.).~~

~~4. Agricultural drying and dehydrating operations.~~

~~5. Alumina processing operations.~~

~~6. Ammonium sulfate manufacturing plants.~~

~~7. Any stationary source category that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 - New Source Performance Standards (NSPS), effective the date listed in Article II, Section 2.13 of this Regulation; except Part AAA, (New Residential Wood Heaters). Ecology is responsible for regulation of projects subject to BB (Kraft Pulp Mills) and Subpart S (Primary Aluminum Reduction Plants);~~

~~8.a. Any stationary source that qualifies as a new or modified stationary source within the meaning of 40 CFR 61.02 - National Emission Standards for Hazardous Air Pollutants (NESHAP), (effective the date listed in Article II, Section 2.13 of this Regulation); except for asbestos on roadways, asbestos demolition or renovation activities subject to 40 CFR 61.145 and;~~

~~b. Any stationary source that qualifies as a new stationary source within the meaning of 40 CFR 63.2 - National Emission Standards for Hazardous Air Pollutants for Source Categories (commonly referred to as MACT Standards), effective the date listed in Article II, Section 2.13 of this Regulation;~~

~~e. Any stationary source that qualifies as a new major stationary source, or a major modification;~~

~~d. Any modification to a stationary source that requires an increase either in a facility-wide emission limit or in a unit specific emission limit.~~

~~9. A stationary source listed in 9.e., below that:~~

~~a. emits any single criteria pollutant, or its precursors, as defined in 40 CFR § 51.852, exceeding emission rates of 0.5 tons per year, or in the case of lead, emissions rates greater than or equal to .005 tons per year, or~~

~~b. emits toxic air pollutants, as defined in Article I, Section 1.04 of this Regulation, with emission rates exceeding the small quantity emission rates established in WAC 173-460-080, or~~

~~c. emits combined air contaminants (criteria, VOCs, or TAPs) in excess of 1.0 ton per year, or~~

~~d. emits combined toxic air pollutant and volatile organic compound emissions greater than 0.5 tons per year.~~

~~e. The above criteria in 9.a. through 9.d. applies to the following stationary source categories:~~

~~1) Bakeries;~~

~~2) Bed lining or undercoating production or application operations;~~

~~3) Degreasers/solvent cleaners, not subject to 40 CFR Part 63, Subpart T (Halogenated Solvent Cleaners); includ-~~

ing, but not limited to, vapor, cold, open top and conveyerized cleaner;

4) Evaporators;

5) Graphic art systems including, but not limited to, lithographic and screen printing operations;

6) Organic vapor collection systems within commercial or industrial facilities;

7) Soil and groundwater remediation operations;

8) Sterilizing operations, including, but not limited to EtO and hydrogen peroxide, and other sterilizing operations;

9) Utilities, combination electric and gas, and other utility services (SIC 493/NAICS 221111 through 221210, not in order given);

10) Wood furniture stripping and treatment operations (commercial only); and

11) Any stationary source or stationary source category not otherwise identified in this exhibit.

12) Marijuana processors.

10. Any stationary source with significant emissions as defined in Article I, Section 1.04 of this Regulation.

11. Any stationary source required to obtain an approved *Notice of Construction and Application for Approval* under Article V of this Regulation.

12. Any stationary source (including stationary sources that generate fugitive emissions) for which the Control Officer determines that registration is necessary in order to reduce the potential impact from the stationary source's air emissions on: the health, safety, and/or welfare of the public, or unreasonable interference with any other property owner's use and enjoyment of his property, or damage to other property owner's property or business.

13. Any stationary source where the owner or operator has elected to avoid one or more requirements of the operating permit program established in Chapter 173-401 WAC, by limiting its potential to emit (synthetic minor) through an order issued by the Authority.

14. Any stationary source that is required to report periodically to demonstrate nonapplicability to requirements under Sections 111 or 112 of the Federal Clean Air Act.

15. Asphalt and asphalt products production operations (asphalt roofing and application equipment excluded).

16. Brick and clay products manufacturing operations (tiles, ceramics, etc). Noncommercial operations are exempt.

17. Bulk gasoline and aviation gas terminals, bulk gasoline and aviation gas plants, and gasoline and aviation gas loading terminals.

18. Cattle feedlots with operational facilities, which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season.

19. Chemical manufacturing operations.

20. Coffee roasting operations.

21. Composting operations, including commercial, industrial and municipal, except noncommercial agricultural and noncommercial residential composting activities.

22. Concrete production operations and ready mix plants.

23. Dry cleaning operations, using solvents that emit toxic air pollutants or volatile organic compounds.

24. Materials handling and transfer facilities that generate fine particulate and that exhaust more than 1,000 acfm to the ambient air, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere.

25. Flexible polyurethane foam, polyester resin, and styrene production operations.

26. Flexible vinyl and urethane coating operations.

27. Fuel burning equipment, including but not limited to boilers, building and process heating units (external combustion) with per unit heat inputs greater than or equal to:

a. 500,000 Btu/hr using coal or other solid fuels with \leq 0.5% sulfur;

b. 500,000 Btu/hr using used/waste oil, per the requirements of RCW 70.94.610;

c. 1,000,000 Btu/hr using kerosene, #1, #2 fuel oil, or other liquid fuel, except used/waste oil;

d. 4,000,000 Btu/hr using gaseous fuels, such as, natural gas, propane, methane, LPG, or butane, including but not limited to, boilers, dryers, heat treat ovens and deep fat fryers; and

e. 400,000 Btu/hr, wood, wood waste, or paper.

28. Gasoline dispensing facilities, subject to Chapter 173-491 WAC, and aviation gas dispensing facilities with total tank capacities greater than 10,000 gallons.

29. Grain handling; seed, pea and lentil processing facilities. Registration shall be in accordance with Section 4.03.B.

30. Hay cubing operations and pelletizers, established at a dedicated collection and processing site.

31. Incinerators; as defined in Section 1.04 of this Regulation, including human and pet crematories and other solid, liquid, and gaseous waste incinerators.

32. Insulation manufacturing operations.

33. Metal casting facilities and foundries, ferrous.

34. Metal casting facilities and foundries, nonferrous.

35. Metal plating and anodizing operations.

36. Metallic and nonmetallic mineral processing, including, but not limited to, rock crushing, sand and gravel mixing operations.

37. Metallurgical processing operations.

38. Mills; lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, grass/stubble pressboard, pelletizing, or any combination thereof.

39. Mills; grain, seed, feed and flour production and related operations

40. Mills; wood products manufacturing operations (including, but not limited to, cabinet works, casket works, furniture and wood by products).

41. Mineralogical processing operations.

42. Natural gas transmission and distribution (SIC 4923/NAICS 486210 and 221210, respectively).

43. Ovens/furnaces, kilns and curing, burnout, (including, but not limited to, ovens/furnaces that heat clean automotive parts, paint hooks, electric motors, etc.) except those that would otherwise be exempt under item 27.

44. Paper manufacturing operations, except Kraft and sulfite pulp mills.

45. Petroleum refineries.

46. Pharmaceuticals production operations.

47. ~~Plastics and fiberglass fabrication, including geocoat, polyester resin, or vinyl ester coating operations using more than 55 gallons per year of all materials containing volatile organic compounds or toxic air pollutants.~~

48. ~~Refuse systems (SIC 4953/NAICS 562213, 562212, 562211, & 562219, respectively), including municipal waste combustors; landfills with gas collection systems and/or flares; hazardous waste treatment, storage, and disposal facilities; and wastewater treatment plants other than private and publicly owned treatment works (POTWs).~~

49. ~~Rendering operations.~~

50. ~~Sewerage systems, private and publicly owned treatment works (POTWs) with a rated capacity of more than 1 million gallons per day (SIC 4952/NAICS 221320).~~

51. ~~Semiconductor manufacturing operations.~~

52. ~~Internal combustion engines used for standby, back-up operations only, and rated at or above five hundred brake horsepower.~~

53. ~~Stationary internal combustion engines, other than engines used for standby or back-up operations, that are rated at one hundred brake horsepower or more, that are integral to powering a stationary source or stationary source category, including but not limited to, rock crushing, stump and wood waste grinding, and hay cubing operations.~~

54. ~~Stump and wood waste grinding established at a dedicated collection and processing site.~~

55. ~~Storage tanks for organic liquids, within commercial or industrial facilities, with capacities greater than 20,000 gallons.~~

56. ~~Surface coating, adhesive, and ink manufacturing operations.~~

57. ~~Surface coating operations, including, automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates.~~

58. ~~Synthetic fiber production operations.~~

59. ~~Synthetic organic chemical manufacturing operations.~~

60. ~~Tire recapping operations.~~

61. ~~Wholesale meat/fish/poultry slaughter and packing plants.~~

62. ~~Startup of a new air contaminant source at a site where:~~

a. ~~a previous air contaminant source was located; and~~

b. ~~the nature of the business or pollutants of the new air contaminant source is different from the previous air contaminant source.~~

63. ~~Marijuana producers.~~

64. ~~Marijuana processors with direct processing of the marijuana plant and plant material (dry, cure, extract, compound, convert, package, and label usable marijuana and marijuana concentrates).)~~

NEW SECTION

SECTION 4.05 CLOSURE OF A STATIONARY SOURCE OR EMISSIONS UNIT(S)

(A) Closed Source or Emission Unit. A stationary source or emissions unit(s) is considered closed when:

(1) The owner or operator notifies the Agency using the Agency prepared and furnished notification form, within ninety (90) days after the owner or operator permanently stops or terminates processes that produce air contaminant

emissions at a stationary source or emissions unit(s). Upon submittal of an Agency prepared and furnished notification form to the Agency, or receipt of a written notification from the Agency of closure, the registration status of the stationary source or emissions unit(s) becomes null and void.

(2) The owner or operator fails to pay registration fees within one hundred and twenty (120) calendar days of the original invoice date constitutes the closure of the stationary source.

(3) The Agency determines that the stationary source has gone out of business, but does not file the Agency prepared and furnished notification form.

(B) Not Operated for Two or More Years. A stationary source or emissions unit(s) that has not operated for two (2) or more years is presumed to be closed. In such cases it is up to the owner or operator to rebut the presumption. Prior to two (2) years and except as provided in Section 4.05(A) above, whether a source is closed depends on the intention of the owner or operator at the time it ceased operation, based on the following factors:

(1) The duration and cause of the cessation of operations;

(2) The maintenance or testing status of the stationary source or emissions unit(s);

(3) Whether a presence was maintained at the site during the cessation of operations; and

(4) The payment status of registration fees during the cessation of operations.

(C) Process and Control Equipment Rendered Inoperable. In the event of the closure of a stationary source or emissions unit(s), the process and pollution control equipment may remain in place and on site, but must be rendered incapable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation.)

(D) Operation of Closed Source or Emissions Unit. It is unlawful for an owner or operator to continue operating a stationary source or emissions unit(s) that is considered closed.

(E) Resume Operation of Closed Source or Emissions Unit. A stationary source or emissions unit(s) resuming operation after closure must file an NOC application and receive an Order of Approval by the Agency prior to operation.

AMENDATORY ARTICLE TITLE

NEW SOURCE REVIEW FOR((, MODIFIED, AND TEMPORARY)) STATIONARY SOURCES AND PORTABLE SOURCES ((AND REPLACEMENT OR ALTERATION OF EMISSIONS CONTROL EQUIPMENT))

AMENDATORY SECTION

SECTION 5.01 DEFINITIONS (((Reserved))) (Repealed, 3/4/04, Res. 04-01)

AMENDATORY SECTION

SECTION 5.02 NEW SOURCE REVIEW APPLICABILITY AND ((NOTICE OF CONSTRUCTION (NOC)-)) WHEN REQUIRED

((A-)) (A) Purpose. SRCAA Regulation I, Article V contains the new source review requirements for stationary and portable sources in Spokane County.

(B) Applicability. Article V applies to all stationary sources, portable sources and source categories listed in Article IV, Section 4.04, unless specifically exempted Article V, Section 5.02(I).

(C) NOC Required for New or Modified Stationary Sources. A NOC ((Notice of Construction)) application must be filed by the owner or operator and an ((~~an~~) Order of ((~~an~~) Approval issued by the ((~~the~~) ((~~the~~) Agency prior to the establishment of any of the following stationary ((new)) source or source categories: ~~(- For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in Article I, Section 1.04, and "new source" shall include any modification to an existing stationary source or source category, as defined in Article I, Section 1.04. Stationary sources or source categories subject to this Section include, but are not limited to, the following:))~~

(1) ~~(-)~~ New ~~(S)~~ stationary sources ~~(or)~~ and source categories subject to the applicability criteria in Article IV, Section 4.04; ~~((listed in Exhibit "R" of Article IV of this Regulation, except for those that are below emission thresholds listed therein or are exempted as provided in Section 5.02.P. of this Regulation; or))~~

(2) ~~(-)~~ Establishment of a new major stationary source as defined in WAC 173-400-710 and 173-400-810;

(3) ~~(2-)~~ ~~((Any m))~~ Modifications to an existing stationary source ~~((or source category))~~ which results in an increase in actual emissions or that requires an increase in either a facility-wide or a unit specific emission limit; ~~((- except for stationary sources or source categories with actual emission increases below emission thresholds listed in Exhibit "R" of Article IV of this Regulation; or))~~

~~((3. Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the Authority prior to establishment of any of the stationary sources listed in Items 7 and 8 of Article IV, Exhibit "R"; or))~~

~~((4.a. Establishment of a new major stationary source or source category;))~~

(4) ~~(b. Major)~~ A major modification ~~((s))~~ to an existing major stationary source as defined in WAC 173-400-710 and 173-400-810 ~~((or source category));~~

~~((e. Establishment of a new major temporary stationary source or source category;))~~

~~((d. Major modification of a temporary stationary source or source category that is located at an existing stationary source or source category; or))~~

~~((5. Any modifications that require an increase either in a facility wide emission limitation or a unit specific emission limit; or))~~

(5) Any stationary source with emissions that exceed the SQER in Chapter 173-460 WAC;

(6) ~~(-)~~ Like-kind ~~r(R)~~ replacement of existing emissions unit(s) ~~((with new or used emissions unit(s); or))~~

(7) Existing stationary source replacement or substantial alteration of control equipment;

(8) ~~(7. Restart of a)~~ A stationary source or ~~((source category after "closure or shutdown", as defined in Article I, Section 1.04))~~ emission unit(s) resuming operation after it has been closed per Article IV, Section 4.05;

(9) ~~(8. Relocation of an)~~ An existing stationary source ~~((or source category, except as provided for in Section 5.02.H and as specified in Section 5.02.I; or))~~ that is relocated;

~~((9. Location for the first time of a portable, (or temporary, if applicable) stationary source or source category operates in Spokane County.))~~

(10) A stationary source that applies for coverage under a GOA issued by the Agency under WAC 173-400-560 in lieu of filing a NOC application under Article V, Section 5.02; or

~~((11) ~~(10-)~~ Any stationary source ~~((Determination by))~~ the ~~((Authority that))~~ Agency determines must file ~~((a Notice of Construction))~~ NOC application and obtain an Order of Approval ~~((is necessary))~~ in order to reduce the potential impact ~~((from any stationary source or source category's))~~ of air emissions on ~~((- the))~~ human health and ~~((-))~~ safety, ~~((and/ or welfare))~~ prevent injury to plant, animal life, and property, ~~((of the public;))~~ or which unreasonably interferes ~~((unreasonable interference))~~ with ~~((any other property owner's use and))~~ enjoyment of ~~((his))~~ life and property, ~~((- or damage to other property owner's property or business.))~~~~

~~((B. Stationary sources or source categories not subject to Section 5.02.A include those stationary sources or source categories listed in Sections 5.02.H, 5.02.I, 5.02.M and 5.02.N.1 of this Article.))~~

(D) PSP Required for New or Modified Portable Sources. A PSP application must be filed by the owner or operator and a Permission to Operate issued by the Agency prior to the establishment of any portable sources which locate temporarily at locations in Spokane County, unless specifically exempted in 5.08(D).

~~((C. The owner, operator, or their agent shall use Authority prepared and furnished application and information request forms when applying for a Notice of Construction and Application for Approval.))~~

(E) ~~(D-)~~ Modification Review. New source review of a modification ~~((shall be))~~ is limited to the emissions unit(s) ~~((or units))~~ proposed to be added or modified at ~~((to))~~ an existing ~~((or modified))~~ stationary source ~~((or source category))~~ and the air contaminants whose ~~((actual))~~ emissions would increase as a result of the modification. Review of a major modification must comply with WAC 173-400-700 through 173-400-750 or 173-400-800 through 173-400-860, as applicable. ~~((NOTE: Modification, as defined in Article I, Section 1.04 of this Regulation, does not have the same meaning as a Major Modification, defined in WAC 173-400-112 and WAC 173-400-113.))~~

~~((E. New stationary sources' or source categories' emission calculations shall be based on a stationary source or source categories' "potential to emit", as defined in Article I, Section 1.04 of this Regulation. Modified stationary source or source category emission calculations shall be based on the increase in "actual emissions", as defined in Article I Section 1.04 of this Regulation.))~~

~~((F. The Authority implements and enforces the requirements of WAC 173-400-114 for replacement or substantial alteration of emission control technology at an existing stationary source.))~~

~~((G. A separate Notice of Construction and Application for Approval shall be filed for each new or modified stationary source, source category, or emissions control system, unless identical units are to be constructed, installed, or established and operated in an identical manner at the same~~

facility, except that the owner or operator has the option to file one application for an entire facility, with a detailed inventory of stationary sources or source categories and their emissions related to that facility.)

~~((H. A Notice of Construction and Application for Approval is not required for construction, installation, establishment, modification, or alteration of stationary sources or source categories, comprised of equipment utilized exclusively in connection with any structure, which is designed for, and used exclusively as, a residence with not more than four dwelling units.))~~

~~((I. A Notice of Construction and Application for Approval is required for portable, (or temporary, if applicable) stationary sources or source categories, operating in accordance with Section 5.08 – the first time that it operates in Spokane County. Thereafter, each time that the portable or temporary stationary source or source category relocates and operates at a new site in Spokane County, it must apply for and obtain an approved Notice of Intent to Install and Operate a Temporary Stationary Source pursuant to Section 5.08.))~~

~~((J.)) AOP Integrated Review. An owner or operator ((person)) seeking approval to construct or modify an air operating permit source, may elect to integrate review of the air operating permit application or amendment, required under RCW 70.94.161, and the NOC application ((Notice of Construction and Application for Approval)) required by ((this)) Article V. A NOC application ((Notice of Construction and Application for Approval)) designated for integrated review ((shall)) must be processed in accordance with the provisions in Chapter 173-401 WAC.~~

~~((G) New Major Stationary Source or Major Modification in a Nonattainment Areas. The proposed project is subject to the permitting requirements of WAC 173-400-800 through 173-400-860 if:~~

~~(1) It is a new major stationary source or major modification, located in a designated nonattainment area;~~

~~(2) The project emits the air pollutant or its precursors for which the area is designated nonattainment; and~~

~~(3) The project meets the applicability criteria in WAC 173-400-820.~~

~~((K. A Notice of Construction and Application for Approval for a major modification in a nonattainment area, or for a major stationary source in a nonattainment area, is subject to the public notice requirements of Section 5.05.))~~

~~((H) PSD Permitting with New Major Stationary Source or Major Modification. If the proposed project is a new major stationary source or a major modification that meets the applicability criteria of WAC 173-400-720, the project is subject to the PSD permitting requirements of WAC 173-400-700 through 173-400-750.~~

~~((L. An applicant filing a Notice of Construction and Application for Approval for a project described in WAC 173-400-117(2) (Special protection requirements for Class I areas) must send a copy of the application to the responsible federal land manager.))~~

~~((M. De minimis emission levels (based on Potential To Emit), below which a new source or stationary source category, is not subject to a Notice of Construction and Application for Approval, are listed in Exhibit "R" of Article IV of~~

this Regulation. De minimis emission levels (based on actual emissions increase), below which a modification of an existing stationary source or source category, is not subject to a Notice of Construction and Application for Approval, are listed in Exhibit "R" of Article IV of this Regulation. The owner or operator shall maintain sufficient documentation, as required by the Authority, to verify that the new or existing stationary source or source category is entitled to continued exemption under this section.))

~~((N. Transfer of Ownership~~

~~1. If an existing stationary source or stationary source category, with a valid Order of Approval, is transferred to new ownership per Article IV, Section 4.02.D and the stationary source category or stationary source category is unchanged by the transfer, then the existing Order of Approval is transferable to the new ownership, as written.~~

~~2. An existing Order of Approval is not transferable to a stationary source or stationary source category that is installed or established at a site where a stationary source category or stationary source category was previously located and the business nature of the new source is different from the previous stationary source.~~

~~3. In either of the above cases, if the stationary source or stationary source category did not have a valid Order of Approval under the prior ownership, then the owner or operator of the new source or stationary source category shall apply for, and receive approval of, a Notice of Construction prior to commencing operation.))~~

~~((O. Except where Ecology is the permitting agency pursuant to WAC 173-400-141 (PSD) or Ecology's Industrial Sector has retained specific air pollution stationary sources or source categories exclusively under their jurisdiction, pursuant to RCW 70.94.422, the Authority permits, implements and enforces WAC 173-400-112 (Requirements for new sources in nonattainment areas) and WAC 173-400-113 (Requirements for new sources in attainment areas), in Spokane County.))~~

~~((P.)) Stationary Sources Exempt from Article V.~~

~~(1) The following ((new)) stationary sources are exempt from the requirement to file a NOC application ((Notice of Construction and Application for Approval)) and obtain an Order of Approval, provided that the source has registered with the ((Authority (as required) per Regulation I.)) per Article IV.((h)) prior to placing the source in operation:~~

~~(a)((1.)) Batch coffee roasters with a maximum rated capacity of five (5) kg ((10 lbs.)) per batch or less, unless air pollution controls are required because of documented nuisance odors or emissions.~~

~~(b)((2.)) Marijuana producers and marijuana processors.~~

~~(c) Motor vehicle or motor vehicle component surface coating operations with PTE emissions less than one hundred (100) lbs/yr and with PTE toxic air pollutant emissions that do not exceed any SQER listed in Chapter 173-460 WAC.~~

~~(2) Exemption documentation. The owner or operator of any stationary source exempted under Article V must maintain documentation in order to verify the stationary source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of~~

the exemption in Section 5.02 (I)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit and NOC application and receive an Order of Approval from the Agency.

(3) Compliance with SRCAA Regulation I. An exemption from new source review under Section 5.02 (I)(1) is not an exemption from registration under Article IV or any other provision of Regulation I. Portable sources are exempt from registration [Section 4.03 (A)(3)].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.03 NOC AND PSP (~~(NOC)~~) FEES

~~((A-))~~(A) Fees. The owner or operator ~~((person))~~ filing a NOC application or PSP ~~((Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source))~~ application must ~~((shall))~~ pay ~~((a filing fee and plan review and approval))~~ fees according to SRCAA Regulation I, Article X, Sections 10.07 and 10.08. ~~((of this Regulation.))~~

~~((B-))~~(B) Fee Payment. Fees must ~~((shall))~~ be paid without regard to whether a NOC application or PSP application ~~((Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source application))~~ is approved or denied, or a threshold determination is made.

AMENDATORY SECTION

SECTION 5.04 INFORMATION REQUIRED

~~((A-))~~(A) NOC and PSP Information. Each NOC application or PSP application must ~~((Notice of Construction and Application for Approval or Notice of Intent to Install and Operate a Temporary Stationary Source shall))~~ be accompanied by appropriate documentation that provides a detailed description of the stationary source or portable source to enable the Agency to determine that the source or emissions unit will comply with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s). Information must be submitted on Agency prepared and furnished forms. Such information ~~((shall))~~ must include ~~((but is not limited to))~~:

(1)(-) The new or modified stationary source, portable source, emissions unit, or ~~((equipment and emissions))~~ control equipment ~~((subject to the order of approval or permission to operate));~~

(2)(-) Any equipment connected to, serving, or served by the new or modified stationary source or portable source ~~((equipment, and emissions control equipment subject to the order of approval or permission to operate));~~

(3)(-) A plot plan, including the distance to, length, width, and height of; buildings within two hundred (200) feet, or other distance specified by the ~~((Authority))~~ Agency, from the place where the new or modified stationary source or portable source ~~((is or))~~ will be installed;

(4)(-) The proposed means for the prevention or control of the emissions of air contaminants;

(5)(-) Estimated emissions resulting from the proposal and the basis for the estimates, or sufficient information for the ~~((Authority))~~ Agency to determine the expected emissions;

(6)(-) Any additional information required by the ~~((Authority))~~ Agency to show that the proposed new or modified stationary source or portable source will meet the applicable air quality requirements of Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ~~((Authority's))~~ Agency's regulation(s);

(7)(-) Any additional information required under WAC 173-400-112 or WAC 173-400-113; and

(8)(~~(A-))~~) The owner or operator ~~((shall))~~ must provide documentation that the requirements of Chapter 197-11 WAC, State Environmental Policy ~~((Article XI of this Regulation (Spokane Environmental Ordinance)))~~ have been met. ~~((B-))~~ If the ~~((Authority))~~ Agency is the lead agency for review of an Environmental Checklist (SEPA) or ~~((Environmental Impact Statement (EIS)))~~ EIS related to the NOC or PSP ~~((Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source))~~ application being submitted, then the ~~((person))~~ owner or operator filing the SEPA ~~((shall))~~ must pay a SEPA review fee according to SRCAA Regulation I, Article X, Section 10.07 ~~((E. of this Regulation)).~~ This fee ~~((shall))~~ must be paid without regard to the final SEPA determination. ~~((whether a Determination of Nonsignificance, Mitigated Determination of Nonsignificance or Determination of Significance is issued.))~~ The cost of publishing any required public notice must be paid by the owner or operator.

~~((B-))~~(B) Signature. Each NOC or PSP ~~((Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source))~~ application ~~((shall))~~ must be signed by the owner(-) or operator(- or their agent) of the new or modified stationary source or portable source.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.05 PUBLIC INVOLVEMENT

(A) Public Notice and Opportunity for Public Comment.

(1) SRCAA Regulation I, Article V, Section 5.05 specifies the requirements for notifying the public about air quality actions and provides opportunities of the public to participate in those actions.

(2) Applicability to Prevention of Significant Deterioration (PSD). This Section does not apply to a NOC designated for integrated review with actions regulated by WAC 173-400-700 through 173-400-750. In such cases, compliance with the public notification of WAC 173-400-740 is required.

(A-)(B) Public Notice of Application.

(1)(~~(A-))~~) A notice ~~((shall))~~ must be published on the ~~((Authority's))~~ Agency's ~~((Internet))~~ web site announcing the receipt of NOC ~~((Notice of Construction))~~ applications and PSP applications. ~~((including the first time that a portable stationary source (or temporary stationary source, if applicable) operates in Spokane County) and other proposed actions.))~~ Notice ~~((shall))~~ will be published for a minimum of fifteen (15) consecutive days. Duration does not require unin-

interrupted web site access. ~~((Publication of a notice on the Authority's website at the time of application receipt is not required for any application or proposed action that automatically requires a public comment period pursuant to Subsection B. of this Section. In the event that publication on the Authority's Internet website does not occur for the prescribed time period, notice will be published for a minimum of one (1) day in a newspaper of general circulation in the area of the proposed action. Each notice shall, at a minimum, include the following information:))~~ Each notice will include the following information:

~~(a)((-)) Notice of the receipt of the application; ((The name and address of the owner or operator and the affected facility;))~~

~~(b)((-)) The type of ((A brief description of the)) proposed action;~~

~~(c)((-)) ((Authority contact information;~~

~~d.)) A statement that the public may request a public comment period on the proposed action per Article V, Section 5.05 (B)(2). ((will be provided upon request pursuant to Section 5.05.C of this Article; and~~

~~e. The date by which a request for a public comment period is due.))~~

~~(2)((-)) Requests for a thirty (30) day public comment period concerning applications, orders, proposed projects, or actions must ((shall)) be submitted to the ((Authority)) Agency in writing via letter, fax, or electronic ((mail)) means within fifteen (15) days of the posting date on the Agency's web site.~~

~~(a) A thirty (30) day public comment period ((shall)) must be provided per Article V, Section 5.05(D) ((pursuant to Subsection C. of this Section)) for any application or proposed action that receives such a request.~~

~~(b) Any application or proposed action for which a thirty (30) day public comment period is not requested may be processed without further public involvement at the end of the fifteen (15) day comment period referenced in Section 5.05 (B)(1).~~

~~(3) If state or federal regulations require public notice, the public notice must occur in a manner that complies with Section 5.05 and those sections of the state or federal regulations that are applicable.~~

~~((B-))((C) Mandatory ((p))Public ((e))Comment ((p))Period. ((+)) A thirty (30) day public comment period ((shall)) must be provided per Article V, Section 5.05(D) ((pursuant to Subsection C. of this Section)) before approving or denying any of the following:~~

~~((a. Any Notice of Construction application (this includes the first time that a portable stationary source (or temporary stationary source, if applicable), operates in Spokane County) for a new or modified "stationary source" or emission unit that results in a "significant", as defined in Section 1.04 of this Regulation, net increase, in emissions (actual or potential to emit) of any air contaminant regulated by state or federal law;))~~

~~(1) An application, order, or proposed action for which a public comment period is requested in compliance with Section 5.05 (B)(2);~~

~~(2) An order for a new stationary source or modification of an approved stationary source that increases the annual~~

~~allowable emissions of the approved source to ten (10) tons or more of any air contaminant, criteria pollutant, or toxic air pollutant;~~

~~(3) A NOC or PSP application for a new or modified source if there is an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030), or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under Chapter 173-460 WAC;~~

~~(4)((b. Any u)) Use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51, ((as amended,)) as part of review under Article V, Sections 5.02 and 5.08 ((and 5.02 of this Article)), WAC 173-400-112, WAC 173-400-113, or WAC 173-400-117((; or WAC 173-400-144));~~

~~(5)((e-)) Any order to determine RACT;~~

~~((d. Any order in which public notice is required by state (WAC 173-400-171) or federal (40 CFR 51.161), laws or regulations;))~~

~~((e. Any order for a proposed new or modified stationary source that would cause an annual increase of ten (10) tons or more of any air contaminant or precursor, for which ambient air quality standards have been established, or of any toxic air pollutant, as defined in Article I, Section 1.04 of this Regulation;))~~

~~((f. Any order for which the applicant requests approval of a risk analysis pursuant to Chapter 173-460 WAC;))~~

~~(6)((g-)) An((y)) order to establish a compliance schedule or a variance. A variance shall be in accordance with Regulation I, ((handled as provided in)) Article III ((of this Regulation));~~

~~(7)((h-)) An((y)) order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five (65) meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;~~

~~(8)((i-)) An((y)) order to authorize a bubble, ((pursuant)) under to RCW 70.94.155 and WAC 173-400-120;~~

~~(9)((j-)) An((y)) action to ((order used to establish)) discount the value of an ERC issued to a source per WAC 173-400-136; ((a creditable emission reduction, pursuant to WAC 173-400-134;))~~

~~(10) A regulatory order to establish BART for an existing stationary facility;~~

~~(11) A NOC application or regulatory order used to establish a creditable emission reduction;~~

~~(12)((k-)) An((y)) order issued under WAC 173-400-091 that ((which)) establishes limitations on ((a "stationary source's" potential to emit)) PTE;~~

~~(13)((l-)) An((y)) extension of the deadline to begin actual construction of a ((major stationary source((s)) or ((major modification((s)) in a nonattainment area;~~

~~((m. Any change in conditions of an existing Notice of Construction determination, except for Sections 5.10.E.1 and 5.10.E.5 of this Regulation;))~~

~~((n. Any Notice of Construction application (this includes the first time that a portable stationary source (or temporary stationary source, if applicable), operates in Spokane County) for which request for public comment opportunity is made pursuant to Subsection A. of this Section; or))~~

(14) The original issuance and the issuance of all revisions to a GOA issued under WAC 173-400-560;

(15) An order issued under WAC 173-400-081(4) or 173-400-082 that establishes an emission limitation that exceeds a standard in the SIP; or

(16)(~~(e-)~~) An(~~(y)~~) NOC (~~(Notice of Construction)~~) application or other proposed action for which the (~~(Authority)~~) Agency determines there is a (~~(substantial)~~) significant public interest.

~~(p. Any Notice of Construction application designated for integrated review that includes a PSD permit application, an application for a "major modification" in a nonattainment area, or an application for a "major stationary source" in a nonattainment area must also comply with the public notice requirements of WAC 173-400-171 and this Section of this Regulation.)~~

~~(D)(~~(C-)~~) Public (~~(e)~~) Comment (~~(p)~~) Period.~~

(1)(~~(-)~~) After all information required by the Agency has been submitted and applicable preliminary determinations, if any, have been made, a(~~(A)~~) public comment period on actions listed under Section 5.05(C) must (~~(shall)~~) be provided for a minimum of thirty (30) days following the date the notice is first published on the Agency web site. If a public hearing is held, the comment period must extend through the hearing date. (~~(only after all information required by the Authority has been submitted and after applicable preliminary determinations, if any, have been made.)~~)

(2)(~~(-)~~) Availability for public inspection.

(a) Administrative record. The information submitted by the (~~(applicant)~~) owner or operator, and any applicable preliminary determinations, including analyses of the effect(s) on air quality, (~~(shall)~~) must be available for public inspection in at least one (1) location near the proposed project or on the Agency web site for the duration of the public comment period. Duration does not require uninterrupted web site access.

(b) The Agency must post the following information on their web site for the duration of the public comment period. Duration does not require uninterrupted web site access.

1. Public notice must include the information described in Section 5.05 (D)(4);

2. Draft permit, order, or action; and

3. Information on how to access the administrative record.

~~(Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and Article II, Section 2.03 of this Regulation.)~~

(3)(~~(-)~~) Publication of comment period notice.

(a) Public notice of all applications, orders, hearings, or actions listed in Article V, Section 5.05(C) must be posted on the Agency's web site for the duration of the public comment period. Duration does not require uninterrupted web site access.

(b) The Agency may supplement Agency web site notification by advertising (~~(Notice shall be published)~~) in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community. (~~(project for a minimum of one (1) day. For applications or actions subject to a public comment period pursuant to~~

~~Subsections B.1.n. or B.1.o. of this Section, publication on the Authority's Internet homepage for a minimum of thirty (30) days may be substituted for newspaper publication.)~~

(4) Notice for a public comment period (~~(shall)~~) must include the following information:

(a) Date the public notice is posted;

(b)(~~(4-)~~) The name and address of the owner or operator and the affected facility;

(c)(~~(a-)~~) A brief description of the proposal and the type of facility, including a description of the facility's processes subject to the permit;

(d) A description of the air contaminant emissions including the type of pollutants and quantity of emissions that would increase under the proposal;

(e)(~~(b-)~~) The location where those (~~(of the)~~) documents made available for public inspection may be reviewed;

(f)(~~(e-)~~) State date and end date for the (~~(Identification of a)~~) thirty (~~(-)~~) (30) day public comment period (~~(for submitting written comment to the Authority)~~);

(g)(~~(d-)~~) A statement that a public hearing may be held if the (~~(Authority)~~) Agency determines within a thirty (30) (~~(-)~~) day period that significant public interest exists;

(h) The name, address, telephone number, and e-mail address of a person at the Agency where interested persons may obtain additional information, including copies of the permit draft, application, relevant supporting materials, compliance plan, permit, monitoring, compliance certification report, and all other materials available to the Agency that are relevant to the permit decision;

(i) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117, public notice must explain the Agency's decision; and

(j)(~~(e-)~~) Any other information required under state or federal laws or regulations. (~~(;)~~)

~~(f. The length of the public comment period in the event of a public hearing; and)~~

~~(g. For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117 (5)(e), the comment period notice shall explain the Authority's decision.)~~

(5)(~~(-)~~) The cost of publishing any public notice required by (~~(this)~~) Article V, Section 5.05 must (~~(shall)~~) be paid by the owner or operator (~~(applicant)~~).

(6)(~~(-)~~) EPA (~~(N)~~) notification. The Agency must send a copy of the notice for all actions subject to a mandatory public comment period to the EPA Region 10 regional administrator. (~~(A copy of the comment period notice shall be sent to the EPA Region 10 Regional Administrator.)~~)

(7)(~~(-)~~) Consideration of public comment. The (~~(Authority)~~) Agency (~~(shall)~~) must make a (~~(no)~~) final decision after the (~~(on any application or other action for which a)~~) public comment period has (~~(been provided until the public comment period has)~~) ended and (~~(any)~~) comments received have been considered.

(8)(~~(-)~~) Public hearings.

(a) The owner or operator, any interested governmental entity, group, or (~~(Any)~~) person may request a public hearing within the thirty (30)(~~(-)~~) day public comment period. All hearing requests must be submitted to the Agency in writing via letter, fax, or electronic means. A request must (~~(Each~~

~~request shall~~) indicate the interest of the ~~((party))~~ entity filing it and why a hearing is warranted.

~~(b)~~ The ~~((Authority))~~ Agency may hold a public hearing if it determines significant public interest exists. The ~~((Authority))~~ Agency will determine the location, date, and time of the public hearing. If a public hearing is held, the public comment period ~~((shall))~~ will extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

~~(c)~~ Notice of public hearings. At least thirty (30) days prior to the public hearing, the Agency must provide notice of the hearing as follows:

1. Post a public hearing notice on the Agency's web site as directed by Section 5.05 (D)(4) for the duration of the public comment period. Duration does not require uninterrupted web site access.

2. Distribute by electronic means or postal service the notice of public hearing to any person who submitted written comments on the application or requested a public hearing, and in the case of a permit action, to the owner or operator.

3. The notice must include the date, time, and location of the public hearing.

4. The Agency may supplement Agency web site notification by advertising in a newspaper of general circulation in the area of the proposed action or by other methods appropriate to notify the local community.

~~(E)(D-)~~ Public ~~((i))~~ Involvement for ~~((i))~~ Integrated ~~((r))~~ Review with an Air ~~((o))~~ Operating ~~((p))~~ Permit. Any NOC ~~((Notice of Construction))~~ application designated for integrated review with an application to issue or modify an operating permit ~~((shall))~~ must be processed in accordance with the operating permit program procedures and deadlines (Chapter 173-401 WAC), as adopted by reference.

~~(F)(E-)~~ Other ~~((r))~~ Requirements of ~~((h))~~ Law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this Section (e.g., SEPA). ~~((This Subsection does not apply to applications for a "major modification" or a "major stationary source."))~~

~~(G)(F-)~~ Information for Public Review. ~~((information-))~~ All information ~~((is))~~ must be made available for public inspection at the ~~((Authority))~~ Agency, including copies of NOC applications, Orders of Approval, regulatory orders, and modifications thereof. ~~((except))~~ Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and Regulation I, Article II, Section 2.03. ~~((of this Regulation. Such information includes copies of Notice of Construction applications, orders of approval, regulatory orders, and modifications thereof.))~~

AMENDATORY SECTION

SECTION 5.06 APPLICATION COMPLETENESS DETERMINATION

~~(A)(A-)~~ Application Complete or Information Required.

(1) Within thirty (30) days of receipt of a NOC or PSP ~~((Notice of Construction and Application for Approval or PSD permit))~~ application ~~((PSD permits are Ecology's jurisdiction))~~, the ~~((Authority))~~ Agency ~~((shall))~~ must notify the

owner or operator ~~((applicant))~~ in writing that the application is complete or ~~((notify the applicant in writing))~~ of any additional information necessary ~~((based on review of information already supplied,))~~ to complete the application. Designating an application complete for purposes of NOC or PSP application processing does not preclude the Agency from requesting or accepting any additional information.

~~((1. For a project subject to PSD review under WAC 173-400-141 by Ecology, an NOC application is not deemed complete by the Authority until the application provides all information required to conduct the PSD review and a final determination on the PSD permit, by Ecology has been issued. The Authority shall ensure that its Notice of Construction review of the project is coordinated with Ecology's PSD review.))~~

~~(2)(C-)~~ For a project subject to the ~~((S))~~ special protection requirements for ~~((f))~~ Federal Class I areas ~~((m))~~ under WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3). The owner or operator must send a copy of the application and all amendments to the application to EPA and the responsible federal land manager.

~~((B. The owner or operator shall supply sufficient information to enable the Authority to determine that the project will comply with Chapter 70.94 RCW the rules and regulations adopted thereunder, and the Authority's regulation(s-))~~

(3) For a project subject to the major new source review requirements in WAC 173-400-800 through 860, the completeness determination includes a determination that the application includes all information required for review under those sections.

~~(B)(C-)~~ Fee Payment. As a condition of completeness determination, the ~~((Authority))~~ Agency ~~((may))~~ requires payment of applicable fees ~~((or a portion thereof, pursuant to))~~ per SRCAA Regulation I, Article X, Section 10.07 ~~((of this Regulation)).~~

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.07 ((ISSUANCE OF APPROVAL OR ORDER)) PROCESSING NOC APPLICATIONS FOR STATIONARY SOURCES

~~(A)(A-)~~ For ~~((n))~~ New or ~~((m))~~ Modified ~~((s))~~ Stationary ~~((s))~~ Sources ~~((,))~~.

(1) Criteria for approval of a NOC application. An Order of Approval cannot be issued until the following criteria 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 Article V, Section 5.05;

(e) The requirements of WAC 173-400-200 and 205;

(f) The requirements of WAC 173-400-800 through 860;

(g) The requirements of Chapter 173-460 WAC; and

(h) All fees required under SRCAA Regulation I, Article X, Sections 10.07 and 10.08 have been paid.

(2)(+) Within sixty (60) days of receipt of a complete NOC application ~~((Notice of Construction and Application~~

~~for approval), the ((Authority)) Agency ((shall)) must either issue a final determination on the application or, when required, ((for those proposals subject to public notice requirements,)) initiate public notice and comment procedures under Article V, Section 5.05. ((If state or federal regulations require public notice, the public notice shall occur in a manner that complies with both Section 5.05 and those sections of the state or federal regulations that are applicable.)) The ((Authority)) Agency ((shall)) must issue a final determination as promptly as possible after the close of the comment period.~~

~~(3)((2-))~~ The final determination may include:

~~(a)((-))~~ An ((~~o~~))Order of ((~~d~~))Denial, if ((~~it is found that~~)) the proposal is not in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ((Authority's)) Agency's regulation(s); or

~~(b)((-))~~ An ((~~o~~))Order of ((~~a~~))Approval which may provide reasonable conditions necessary to assure ((~~maintenance o~~f)) compliance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ((Authority's)) Agency's regulation(s).

~~(4)((3-))~~ ((Every)) The final determination on a NOC application must ((Notice of Construction and Application for Approval shall)) be reviewed((,- prior to issuance,)) and signed by a professional engineer prior to issuance ((or staff under the direct supervision of a professional engineer in the employ of the Authority)).

~~(5)~~ The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permit to Operate to the applicant and to any other party who submitted timely comments on the action. The approval, denial, revocation, revision, or suspension order must include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board.

~~(6)((4-))~~ 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 860, ((as defined in WAC 173-400-112, where the new source is located inside of a non-attainment area,)) the ((Authority)) Agency ((shall)) must:

~~(a)((-))~~ Submit any ((Lowest Achievable Emission Rate ~~)~~)LAER((~~3~~)) control ((~~technology~~)) equipment determination((,- for any non-attainment criteria pollutant of concern and/or its precursor, that is)) included in a final ((~~o~~))Order of ((~~a~~))Approval to the RACT/BACT/LAER Clearinghouse maintained by the EPA; and

~~(b)((-))~~ Send a copy of the final ((~~o~~))Order of ((~~a~~))Approval, with the LAER control ((~~technology~~)) equipment determination, to EPA.

~~(7)((5-))~~ The owner or operator of a stationary source ((shall)) must not ((~~"commence" construction or "~~))begin actual construction((," as those terms are defined in Article I, Section 1.04 of this Regulation,)) until the ((Authority)) Agency approves the NOC application and issues an Order of ((~~Notice of Construction and Application for~~)) Approval.

~~((6. The absence of an ordinance, resolution, rule, or regulation, or the failure to issue an order under this section shall not relieve any person from the obligation to comply with applicable emission control requirements or with any other provision of law.))~~

~~(B)((B-))~~ Replacement or ((~~s~~))Substantial ((~~a~~))Alteration of ((~~emission e~~))Control ((~~e~~))Equipment, ~~((1. Any person))~~ An owner or operator proposing to replace or substantially alter the ((~~emission~~)) control ((~~technology~~)) equipment installed on an existing ((~~"~~))stationary source((~~"~~)) or emission unit ((shall)) must file an ((~~Notice of Construction~~)) NOC application with the ((Authority)) Agency. A project to replace or substantially alter control technology at an existing stationary source that results in an increase in emissions of any air contaminant is subject to new source review as provided in Section 5.07(A). For any other project to replace or substantially alter control equipment, the requirements of 5.07 (B)(1) through (5) apply. Replacement or substantial alteration of control equipment does not include routine maintenance, repair, or similar parts replacement. ((If the replacement or substantial alteration meets the definition of "new source" or "modification" then the "new source" emissions standards of Article V, Section 5.02 through 5.07.A., WACs 173-400-112 or 400-113 shall apply. If the replacement or substantial alteration does not meet the definition of "new source" or "modification", then the requirements in B.2. through B.9. of this Section shall apply.))

~~((2. For projects not otherwise reviewable under Article V, Sections 5.02 through 5.07.B.1; Subsections B.2. through B.9. of this Section shall apply.))~~

~~((3. Within thirty (30) days of receipt of a notice of construction application under this section the Authority shall either notify the applicant in writing that the application is complete or that additional information is necessary to complete the application.))~~

~~(1)((4-))~~ Within thirty (30) days of receipt of a complete ((~~Notice of Construction~~)) NOC application, ((under this section the Authority shall)) the Agency must ((either)) issue a final determination. The final determination may include:

~~(a)((~~a~~))~~ An ((~~o~~))Order of ((~~a~~))Approval((;-));

~~(b)((~~a~~))~~ An ((~~o~~))Order of ((~~d~~))Denial((;-)); or

~~(c)((~~a~~))~~ A proposed RACT determination for the ((~~pro~~-posed)) project((,- pursuant to)) per WAC 173-400-114.

~~(2)((5-))~~ The final determination may:

~~(a)((-))~~ Require that the owner ((~~o~~f)) or operator employ RACT for the affected emissions unit;((,- and))

~~(b)((-))~~ Prescribe reasonable operation and maintenance conditions for the control equipment;((;-)) and

~~(c)((-))~~ Prescribe other requirements as authorized by Chapter 70.94 RCW.

~~(3)((6. Prior to issuance, the Notice of Construction))~~ The final determination on a NOC application must ((shall)) be reviewed and signed by a professional engineer prior to issuance. ((or staff under the direct supervision of a professional engineer in the employ of the Authority.))

~~(4)~~ The Agency must promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permission to Operate to the owner or operator, and to any other party who submitted timely comments on the action. The order must include a notice advising the parties of their rights of appeal to the PCHB.

~~(5)((7. Replacement or substantial alteration))~~ Construction shall not commence until the ((Authority)) Agency approves the NOC application and issues an Order of Approval. However, any NOC application ((~~Notice of Con~~

struction and Application for Approval;) filed under Section 5.07(B) ((5.08.B.2 through Section 5.08.B.9)), shall be deemed to be approved without conditions, if the ((Authority)) Agency takes no action within thirty (30) days of receipt of a complete application.

((8. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.))

((9. Replacement or substantial alteration of control technology shall not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards.))

AMENDATORY SECTION

SECTION 5.08 ((TEMPORARY AND)) PORTABLE ((STATIONARY)) SOURCES

(A)((A-)) PSP Required for New or Modified Portable Sources.

(1)((-Except as otherwise provided in 5.08.G of this Article, for)) A PSP application must be filed by the owner or operator and an Permission to Operate issued by the Agency prior to the establishment of any portable -((stationary)) sources, which locate temporarily at ((specific sites)) locations in Spokane County. Exemptions are provided in Section 5.08(D).((, the owner or operator, or their agent shall obtain a Notice of Construction and Application for Approval the first time that the portable stationary source operates in Spokane County. This Notice of Construction shall be subject to the same requirements of a new source.))

(2)((-)) ((Thereafter, e))Each time that ((the)) a portable ((stationary)) source will relocate((s and)) to operate((s)) at a new ((site)) location in Spokane County, the owner or operator ((of said portable stationary source)) must submit a PSP application ((apply for)) and obtain an approved ((Notice of Intent to Install and Operate a Temporary Stationary Source)) Permission to Operate issued by the Agency.

(3)((-The owner or operator, or their agent shall file the Notice of Construction or Notice of Intent to Install and Operate a Temporary Stationary Source (NOI)) The PSP application must be filed at least fifteen (15) ((ten-10)) calendar days prior to ((starting the operation)) operating at a new location.

(4)((-The owner or operator shall apply for the NOC or NOI on Authority prepared and furnished application and information request forms and obtain an order of approval or permission to operate, respectively from the Authority prior to operating at the site. Sufficient information, equivalent to the information required in Section 5.04.A of this Article, shall be supplied by the owner or operator, or their agent to enable the Authority to determine that the operation will be in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the Authority's regulation(s.)) Information required in Article V, Section 5.04, must be supplied by the owner or operator to enable the Agency to determine that the operation is in accordance with Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the Agency's regulation(s).

(5) A PSP application cannot be approved and a Permission to Operate cannot be issued until the criteria given in Section 5.07(A), as applicable, has been met.

(6)((5. Except for nonroad engines, based on the source type and emission quantity, temporary stationary sources, not covered under Section 5.08.A.1, may be subject to new source review at the discretion of the Authority.)) Nonroad engines are reviewed under the following:

(a). Except as provided in Article V, Section 5.08(D), nonroad engines are required to submit PSP application and obtain an approved Permission to Operate if:

1. The nonroad engine is rated at 500 or more bhp; and
2. The nonroad engine operates at the site for thirty (30) or more calendar days in any twelve (12) month period. Nonroad engines anticipated to operate more than thirty (30) days in any twelve (12) month period, but less than one (1) year are subject to the requirements of Article V, Section 5.08. When the nonroad engine operates at the site for more than three hundred sixty-four (364) consecutive days, a NOC application must be filed by the owner or operator and approved by the Agency.

(b) Nonroad engines, required to obtain approval of a PSP application per Section 5.08 are reviewed under the following criteria:

1. Emission impacts must comply with NAAQS;
2. Must meet applicable federal standards for nonroad diesel engines (40 CFR Part 89, if applicable);
3. Must use ultra low sulfur fuel (equal to or less than 0.0015% sulfur by weight);
4. Must be properly operated and maintained; and
5. Opacity from each nonroad engine must not exceed 10%, as determined per EPA Method 9.

(B)((B-)) Permission to Operate.

(1) Permission to ((o))Operate may be granted((;)) subject to ((reasonable)) conditions necessary to assure compliance with Chapter 70.94RCW, the rules and regulations adopted thereunder, and the ((Authority's)) Agency's regulation(s). If any conditions listed in Article V, Section 5.05(C) ((Subsection 5.05.B-)) are applicable to the proposal, a public comment period ((shall)) must be held ((pursuant)) according to Section 5.05(D)((-C)).

((E-))2) Permission to ((o))Operate may be granted for a limited time, but in no case ((shall a temporary or portable stationary source remain at a location)) remains effective for more than three hundred sixty-four (364) ((twelve)) consecutive ((months-)) days from the Permission to Operate approval date. If operation will exceed three hundred sixty-four (364) days, the owner or operator must submit an NOC application per Section 5.02, and receive an Order of Approval per Section 5.07. ((without first obtaining an approved Notice of Construction and Application for Approval-))

(3) The owner or operator of a portable source must not install or operate the portable source until the Agency approves the PSP application and issues a Permission to Operate.

(C)((D-)) Permission to ((o))Operate ((shall be)) Becomes ((i))Invalid if:

(1)((-)) Construction, installation, or operation does not begin within ninety (90) days of receipt of ((permission- or)) Permission to Operate, unless approved by the Agency;

(2)((-)) The operation is removed from the site((-);

(3) The portable source is operated at a location after three hundred sixty-four (364) days from the Permission to Operate approval date; or

(4) The owner or operator of a portable source establishes a permanent stationary source at that site for which the Permission to Operate was approved.

~~(E. Installation or operation of a temporary or portable stationary source shall not commence until the Authority approves the *Notice of Construction* or *Notice of Intent to Install and Operate a Temporary Stationary Source* application, whichever applies.)~~

~~(F. A temporary or portable stationary source, that is required to go through new source review, shall comply with the emission standards for a new source (including BACT or LAER, whichever is applicable under Sections 5.09.C & D) (except nonroad engines) and shall not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards.)~~

~~(D)((G-)) Portable Sources ((The following operations are e)) Exempt from ((this)) Article V, Section 5.08.~~

(1) The following portable sources are exempt from the requirement to file a PSP application and obtain a Permission to Operate, prior to placing the portable source in operation.

(a) Portable sources listed in 1. through 4. below, that emit pollutants below those presented in WAC 173-400-100:

1. Abrasive blasting. ((units that operate at a site for less than 30 days in any 12-month period and as excepted in Exhibit R.2. Abrasive blasting units anticipated to operate more than 30 days in any 12-month period, but less than 1 year are subject to the requirements of this Section, except where the owner, operator, of an abrasive blasting unit, either establishes a permanent facility or operates an abrasive blasting unit at a site for more than 365 consecutive days, in which case, a *Notice of Construction and Application for Approval* must be approved by the Authority's, prior to establishment of said unit or facility.))

2. Rock drilling operations.

3. Blasting operations.

4. Woodwaste chipping and grinding operations ((that operate at a site for less than 30 days in any 12-month period)), except for operations that establish a permanent collection, storage, ((and/or)) or processing facility at a site or sites for purpose of future processing, ((-All other woodwaste chipping and grinding operations are subject to the requirements of new source review and the owner or operator)) must obtain the ((Authority's)) Agency's approval of a *NOC application* ((*Notice of Construction*)), prior to establishment of the stationary source.

(b)((5-)) Soil and groundwater remediation projects that ((have insignificant air pollution impacts, as defined in Exhibit "R" of Article IV of this Regulation)) emit pollutants below those presented in Article IV, Section 4.04 (A)(5)(a) though (d).

(c)((6-)) All nonroad engines associated with portable rock crushing operations, portable asphalt production operations, and portable concrete production operations. ((compression ignition engines.))

(2) Exemption documentation. The owner or operator of any portable source exempted under Section 5.08(D) must

maintain documentation in order to verify the portable source remains entitled to the exemption status and must present said documentation to an authorized Agency representative upon request. If an owner or operator of any source that is exempt from new source review under Article V as a result of the exemptions in 5.08 (D)(1) exceeds the emission thresholds in those exemptions, the owner or operator must immediately notify the Agency of the exceedance and submit a PSP application and receive a Permission to Operate from the Agency.

(3) Compliance with SRCAA Regulation I. An exemption from new source review under Section 5.08(D) is not an exemption from Regulation I, however portable sources are exempt from registration [Section 4.03 (A)(3)].

(E)((H-)) Prevention of Significant Deterioration. Except for nonroad engines, a ((temporary or)) portable ((stationary)) source that is considered a major stationary source or major modification within the meaning of WAC 173-400-113, must also comply with the requirements in WAC 173-400-700 through 750, as applicable. ((173-400-141-)) If a portable source is locating in a nonattainment area and if the portable source emits the pollutants or pollutant precursor for which the area is classified as nonattainment, the portable source must acquire a site-specific Order of Approval.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.09 OPERATING REQUIREMENTS FOR ORDER OF APPROVAL AND PERMISSION TO OPERATE

(A)((A-)) Proper Operation and Maintenance. All equipment, machines, devices, and other contrivances, constituting parts of, or called for ((by plans, specifications or other)) in the information submitted ((pursuant to)) per SRCAA Regulation I, Article V, Sections 5.02, 5.04, and 5.08 ((shall)) must be properly operated and be maintained in good working order. The control equipment must be ((and)) operated at all times that air contaminant emissions may occur, except as otherwise provided in the Order of Approval or Permission to Operate. ((unless otherwise specified by the Authority.))

(B)((B-)) Compliance. All conditions of approval((s)) established ((pursuant to)) under Article V, Sections 5.07 and 5.08((-shall)) must be complied with.

~~(C. All new and modified stationary sources shall employ Best Available Control Technology (BACT), and if applicable, Toxic Best Available Control Technology (TBACT). A new major stationary source or major modification, shall employ the lowest achievable emission rate (LAER) for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.)~~

~~(D. In no event shall the application of RACT, BACT, TBACT, or LAER permit a new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable federal or state standard or regulation.)~~

(C) Back-up, Stand-by Internal Combustion Engine Operating Requirements. Operating requirements for internal combustion engines used for standby or back-up operations, are established by the Agency as follows:

(1) The hours of operation for expected maintenance and testing purposes must be limited to the maximum allowable that will comply with the requirements of Chapter 173-460 WAC. Maintenance and testing purposes means operating the engine to:

(a) Evaluate the ability of the engine or its supported equipment to perform during an emergency;

(b) Train personnel on emergency activities;

(c) Test an engine that has experienced a breakdown, or failure, or undergone a preventative overhaul during maintenance; or

(d) Exercise the engine if such operation is recommended by the engine or generator manufacturer.

(2) No limit will be placed on the hours of operation of the internal combustion engine for emergency use. Emergency use means providing electrical power or mechanical work during any of the following events or conditions:

(a) The failure or loss of all or part of normal power service to the facility beyond the control of the facility; or

(b) The failure or loss of all or part of a facility's internal power distribution system.

(3) The testing and maintenance hours of operation and the emergency hours of operation for the internal combustion engine must be recorded by the owner or operator and reported to the Agency annually upon request.

AMENDATORY SECTION

SECTION 5.10 CHANGES TO AN ORDER OF APPROVAL OR PERMISSION TO OPERATE

(A)(A-) Constructed or Operated Differently than Approved Order. The ((Authority)) Agency may revoke, revise, or suspend an ((o))Order of ((a))Approval, coverage under a GOA, or a P((p))ermission to ((o))perate ((a temporary stationary source, an order of approval for substantial replacement or alteration of emissions control equipment installed on an existing stationary source, or changes thereto,)) if the ((Authority)) Agency determines ((that)) the stationary or portable source is not constructed, installed, or operated as described in the application and information request forms. ((Notice of Construction and Application for Approval, or Notice of Intent to Install and Operate a Temporary Stationary Source, or changes thereto, including the plans, specifications, or other information submitted therewith. Such proceedings shall follow the same process that apply to the initial issuance of the order of approval or permission to operate.))

((B. In addition to revocation, revision or suspension of an order of approval or permit to operate of a stationary source, the Authority may issue a Notice of Violation (NOV) in accordance with RCW 70.94.211.))

(B) Transfer of Ownership/Name Change.

(1) If an existing stationary or portable source with a valid Order of Approval or Permission to Operate is transferred to new ownership or the business changes its name per Article IV, Section 4.02(E), and the source is unchanged by the transfer/name change, then the existing order is transferable to the new ownership/name change, as written.

(2) An existing Order of Approval is not transferable to a new stationary source that is installed or established at a site where a stationary source was previously located if the business nature of the new source is different from the previous stationary source.

(C) Change in Conditions.

(1)((C-) The owner or operator may request, at any time, a change in conditions of an ((o))Order of ((a))Approval or ((p))Permission to ((o))perate ((a temporary stationary source)) and the ((Authority)) Agency may approve such a request provided the ((Authority)) Agency finds ((that)) the criteria given in Section 5.07(A), as applicable, has been met:

((1. The change in conditions will not cause the stationary source to exceed an emissions standard;))

((2. No national ambient air quality standard shall be violated or if in a nonattainment area, shall not interfere with scheduled attainment of national ambient quality standards as a result of the change;))

((3. The change will not adversely impact the ability of the Authority to determine compliance with an emissions standard;))

((4. The revised order of approval or permission to operate will continue to require BACT, as defined at the time of the original order of approval or permission to operate, for each new source approved by the order of approval or permission to operate, except where the Federal Clean Air Act requires LAER; and))

((5. The revision meets the requirements of Article V of this Regulation, WAC 173-400-112, WAC 173-400-113 and WAC 173-400-141, as applicable.))

(2) Requests. Article V does not prescribe the exact form that change of condition request must take. If the request is submitted in writing, the Agency must act upon the request consistent with the timelines in Article V, Sections 5.06 and 5.07 for an Order of Approval, or if a Permission to Operate, consistent with Section 5.08.

((D-))(3) Fee payment. The owner or operator requesting changes to an Order of Approval or Permission to Operate per Section 5.10 must pay applicable ((A)) fees, as established in SRCAA Regulation I, Article X, Section 10.07. ((of this Regulation, shall be assessed to, and paid by, the applicant for requests pursuant to Subsection 5.10.C-))

(D)((E-) Agency Initiated Changes in Conditions.

(1)((L))Order of ((a))Approval((L)) and ((P))Permission to ((o))perate((L)) revisions may be initiated by the ((Authority)) Agency, without fees charged to the owner or operator, provided the owner or operator of ((as long as)) the stationary source ((continues to comply)) has complied with all applicable requirements of Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ((Authority's)) Agency's regulation(s), and the ((Authority)) Agency determines ((that)) the ((o))Order of ((a))Approval or ((permit)) Permission to ((o))perate has:

((1-) (a) ((has t))Typographical errors;((-o-))

((2-) (b) ((has e))Conditions listed therein that are technically infeasible ((ineffective or unreasonable, or))

((3. has conditions that no longer apply because the affected stationary source or associated process or process materials have been significantly altered, or))

~~((4.))~~(c) ~~((has conditions that no longer apply due to revisions to federal, state, or local laws or regulations, or))~~ Additional or revised provisions that are needed to ensure compliance with Chapter 70.94 RCW, the rules and regulation adopted thereunder by the state or Agency, and federal regulations; or

~~((5.))~~(d) Inaccurate ~~((does not accurately show current))~~ ownership information including ~~((;))~~ name, address, phone number, or ~~((there are))~~ other minor administrative inaccuracies.

~~(2)~~(F-) The ~~((Authority))~~ Agency may not modify, delete, or add conditions to an existing ~~((;))~~ Order of Approval or ~~((permit))~~ Permission to ~~((;))~~ Operate under Article V, Section 5.10(D) ~~((E))~~, unless the owner or operator is notified in writing at least thirty (30) days in advance of the effective date of the change. Modified, deleted or added conditions may be appealed in accordance with Chapter 43.21B RCW.

~~(E)~~(G-) Public Notice of Changes in Conditions. Changes to conditions in an ~~((;))~~ Order of Approval or Permission to Operate ~~((for a new source, for modifications to an existing stationary source, and replacement or substantial alteration of emission control equipment of an existing stationary source))~~ are subject to the public involvement provisions of Article V, Section 5.05 ~~((of this Regulation)).~~

~~((H. This Article does not prescribe the exact form that change of condition requests must take. However, if the request is filed on an order of approval, that application must be acted upon consistent with the timelines in Sections 5.06 and 5.07 or if a permit to operate, consistent with Section 5.08 of this Article.))~~

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.11 NOTICE OF START-UP OF A STATIONARY SOURCE OR A PORTABLE SOURCE

After obtaining an Agency issued Order of Approval or Permission to Operate, the ~~((The))~~ owner or operator ~~((of the new, modified, or temporary stationary source, or replacement or substantial alteration of emission control equipment at an existing stationary source shall))~~ must notify the ~~((Authority))~~ Agency at least seven (7) days prior to the ~~((stationary source's))~~ expected start-up date, ~~((; or a shorter time, if approved by the Authority.))~~

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.12 WORK DONE WITHOUT AN APPROVAL

~~(A)~~(A-) Compliance Investigation Fee. The Agency may assess a compliance investigation fee to the owner or operator for operating a stationary source, portable source, or control equipment without an approved Agency Order of Approval, GOA, or Permission to Operate. The compliance investigation fee established in SRCAA Regulation I, Article X, Section 10.07, is in addition to the fees required in Article V, Section 5.03 as a part of the NOC, GOA, or PSP review.

The compliance investigation fee applies when: ~~((Except as provided for in Subsection 5.02.H and 5.02.M, when:))~~

~~(1)~~(-) A stationary source is constructed, installed, modified, or operated prior to receiving an Order of Approval ~~((approval of a Notice of Construction application))~~ from the ~~((Authority))~~ Agency or coverage under a GOA; ~~((; or))~~

~~(2)~~(-) ~~((Emission-e))~~ Control equipment is replaced, installed, or substantially altered on an existing stationary source prior to receiving an Order of Approval ~~((approval of a Notice of Construction application))~~ from the ~~((Authority))~~ Agency; or

~~(3)~~(-) A ~~((temporary or))~~ portable ~~((stationary))~~ source is established or startup ~~((installed or operated))~~ at a ~~((site))~~ location prior to receiving a Permission to Operate ~~((approval of either a Notice of Construction or Notice of intent to Establish a Temporary Stationary Source application))~~ from the ~~((Authority))~~ Agency. ~~((; whichever is appropriate.))~~

~~(B)~~ Compliance with SRCAA Regulation I. ~~((the Authority may assess a compliance investigation fee to the owner or operator, in addition to the fees required in Sections 5.03 and 5.08 of this Regulation as a part of the Notice of Construction or Notice of intent to Establish a Temporary Stationary Source review. The compliance investigation fee is established in Section 10.07 of this Regulation.))~~ Payment of the compliance investigation fee does not relieve any person from the requirement to comply with applicable regulations, nor from any penalties for failure to comply.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 5.13 ORDER OF APPROVAL CONSTRUCTION TIME LIMITS

~~(A)~~(A-) Time Limit. An ~~((;))~~ Order of Approval, issued ~~((pursuant to))~~ under SRCAA Regulation I, Article V, Section 5.07 ~~((or 5.08.A.1 shall))~~ becomes invalid if:

~~(1)~~(-) Construction is not commenced within eighteen ~~((18))~~ months after the receipt of the approval; ~~((; or))~~

~~(2)~~(-) Construction is discontinued for a period of eighteen ~~((18))~~ months or more; ~~((;))~~ or

~~(3)~~(-) Construction is not completed within eighteen ~~((18))~~ months of commencement.

~~(B)~~(B-) Extension. The ~~((Authority))~~ Agency may grant an extension beyond the ~~((extend an))~~ eighteen ~~((18))~~ ~~((-))~~ month period, as provided for in Article V, Section 5.13(A) ~~((A))~~, upon a satisfactory showing that an extension is justified. The ~~((Authority))~~ Agency may approve such a request provided that:

~~(1)~~(-) No new requirements, such as ~~((New Source Performance Standards))~~ NSPS (40 CFR Part 60), ~~((National Emissions Standards for Hazardous Air Pollutants))~~ NESHAP (40 CFR Parts 61 and 63), or state and local regulations, have been adopted ~~((pursuant to))~~ under Chapter 70.94 RCW or the ~~((Federal Clean Air Act))~~ FCCA (42 USC 7401 et seq.) which would change the ~~((;))~~ Order of Approval, had it been issued at the time of the extension; ~~((and))~~

~~(2)~~(-) ~~((If there is a))~~ No control ~~((technology))~~ equipment required ~~((requirement, pursuant to sections))~~ per WAC

173-400-112, WAC 173-400-113, or WAC 173-400-114; or Article V, (~~(Section 5.09.C of this Article; that no technologies)~~) have been subsequently identified which would change the ~~((o))~~Order of ~~((a))~~Approval, had it been issued at the time of the extension; ~~((and))~~

~~(3)(-))~~ The information presented in the NOC application, (~~(Notice of Construction and Application for Approval and)~~) associated documents, and the determinations (~~(that were made)~~) by the ~~((Authority))~~ Agency during review of the application continue to accurately represent the design, configuration, equipment, and emissions of the proposed stationary source; and

~~(4)(-))~~ The applicant certifies that the stationary source will comply with all applicable requirements of Chapter 70.94 RCW, the rules and regulations adopted thereunder, and the ~~((Authority's))~~ Agency's regulation(s).

~~(C)(-))~~ Phased Projects. Article V, Section 5.13(A) (~~(Subsection 5.13.A-))~~) does not apply to the time period between construction of the approved phases of a phased construction project. Each construction phase must commence construction within eighteen (18) months of the projected and approved commencement date.

AMENDATORY SECTION SECTION 5.14 APPEALS

~~((A-))~~ Appeals. Decisions and orders of the Agency (~~(An order of approval, permission to operate, conditions and change thereto, revocation, revision, or suspension thereof, or order of denial of an application for installation and operation of a stationary source))~~) may be appealed to the ~~((Pollution Control Hearings Board))~~ PCHB of Washington within thirty (30) calendar days of receipt, as provided in Chapter 43.21B RCW~~((:))~~

~~((B. The Authority shall promptly mail a copy of each order, approving, denying, revoking, revising, or suspending an Order of Approval or Permit to Operate, to the applicant and to any other party who submitted timely comments on the action. The approval, denial, revocation, revision, or suspension order shall include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board))~~ and, where applicable, to the U.S. EPA Environmental Appeals Board.

AMENDATORY SECTION

SECTION 5.15 OBLIGATION TO COMPLY

~~((A-))~~ The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order (~~(pursuant to this))~~ per SRCAA Regulation I, Article V does (~~(shall))~~ not relieve any person from the obligation to comply with ~~((this))~~ Regulation I or with any other provision of law.

AMENDATORY SECTION

SECTION 6.01 OUTDOOR BURNING

~~((A-))~~(A) Purpose. ~~((6))~~[WAC 173-425-010(1-3)]~~((3))~~ (~~((This Section))~~) SRCAA Regulation I, Article VI, Section 6.01 establishes controls for outdoor burning in Spokane County in order to:

~~(1)(-))~~ Minimize or prohibit outdoor burning to the greatest extent practicable.

~~(2)(-))~~ Minimize or eliminate the impact of emissions from outdoor burning by defining conditions under which outdoor burning may be conducted.

~~(3)(-))~~ Encourage the development and specify the use of reasonable alternatives to outdoor burning. Reasonable alternatives are methods for disposing of organic refuse (such as natural vegetation) that are available, reasonably economical, and less harmful to the environment than burning.

~~(4)(-))~~ Geographically limit outdoor burning in order to assure continued attainment of the ~~((National Ambient Air Quality Standards))~~ NAAQS for carbon monoxide (CO) and fine particulate matter (PM_{2.5}) as specified in 40 CFR Part 50.

~~((B-))~~(B) Applicability. ~~((6))~~[WAC 173-425-020]~~((3))~~

~~(1)(-This))~~ Article VI, Section 6.01 applies to all outdoor burning in Spokane County except:

~~(a)(-))~~ Silvicultural burning. ~~((6))~~[RCW 70.94.6534(1) & Chapter 332-24 WAC]~~((3))~~

Silvicultural burning is related to the following activities for the protection of life or property and/or the public health, safety, and welfare:

~~((i))~~1. Abating a forest fire hazard;

~~((ii))~~2. Prevention of a forest fire hazard;

~~((iii))~~3. Instruction of public officials in methods of forest firefighting;

~~((iv))~~4. Any silvicultural operation to improve the forest lands of the state; and

~~((v))~~5. Silvicultural burning used to improve or maintain fire ~~((dependant))~~ dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

~~(b)(-))~~ Agricultural Burning. ~~((6))~~[Article VI, Section 6.11] ~~((of this Regulation))~~

Agricultural burning is burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.6528 or other authoritative source on agricultural practices.

~~(c)(-))~~ Any outdoor burning on lands within the exterior boundaries of Indian reservations (unless provided for by intergovernmental agreement).

~~(2)(-This))~~ Article VI, Section 6.01 specifically applies to:

~~(a)(-))~~ Firefighting Instruction Fires.

~~((i))~~1. Aircraft Crash Rescue Fire Training, Section 6.01 (D)(1)(a) ~~((-Section 6.01-D.1.a))~~

~~((ii))~~2. Extinguisher Training, Section 6.01 (D)(1)(b) ~~((-Section 6.01-D.1.b))~~

~~((iii))~~3. Forest Fire Training, Section 6.01 (D)(1)(c) ~~((-Section 6.01-D.1.c))~~

~~((iv))~~4. Structural Fire Training, Section 6.01 (D)(1)(d) ~~((Section 6.01-D.1.d))~~

~~((v))~~5. Types of Other Firefighting Instruction Fires, Section 6.01 (D)(1)(e) ~~((Section 6.01-D.1.e))~~

~~(b)(-)~~ Fire Hazard Abatement Fires, Section 6.01 (D)(2)~~((Section 6.01.D.2))~~

~~(c)(-)~~ Flag Retirement Ceremony Fires, Section 6.01 (D)(3)~~((Section 6.01.D.3))~~

~~(d)(-)~~ Indian Ceremonial Fires, Section 6.01 (D)(4)~~((Section 6.01.D.4))~~

~~(e)(-)~~ Land Clearing Fires, Section 6.01 (D)(5)~~((Section 6.01.D.5))~~

~~(f)(-)~~ Rare and Endangered Plant Regeneration Fires, Section 6.01 (D)(6)~~((Section 6.01.D.6))~~

~~(g)(-)~~ Recreational Fires, Section 6.01 (D)(7)~~((Section 6.01.D.7))~~

~~(h)(-)~~ Residential Fires, Section 6.01 (D)(8)~~((Section 6.01.D.8))~~

~~(i)(-)~~ Social Event Fires, Section 6.01 (D)(9)~~((Section 6.01.D.9))~~

~~(j)(-)~~ Storm or Flood Debris Fires, Section 6.01 (D)(10)~~((Section 6.01.D.10))~~

~~(k)(-)~~ Tumbleweed Fires, Section 6.01 (D)(11)~~((Section 6.01.D.11))~~

~~(l)(-)~~ Weed Abatement Fires, Section 6.01 (D)(12)~~((Section 6.01.D.12))~~

~~(m)(-)~~ Other Outdoor Fires, Section 6.01 (D)(13)~~((Section 6.01.D.13))~~

(3)(-) The provisions of Chapter 173-425 WAC (Outdoor Burning) are herein incorporated by reference.

(4)(-) The provisions of ~~(this)~~ Article VI, Section 6.01 are severable. If any phrase, sentence, paragraph, or provision is held invalid, the application of such phrase, sentence, paragraph, or provision to other circumstances and the remainder of this Section shall not be affected.

~~(C)~~ Definitions. ~~((f))~~[WAC 173-425-030](~~(g)~~)

Words and phrases used in ~~(this)~~ Article VI, Section 6.01 shall have the meaning defined in Chapter 173-425 WAC, unless a different meaning is clearly required by context or is otherwise defined in this Section.

(1)(-) *Natural Vegetation* means unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood. It does not include dimensional lumber, mill ends, etc.

(2)(-) *Outdoor Burning* means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purpose of this rule, "outdoor burning" means all types of outdoor burning except agricultural burning and silvicultural burning. ~~((f))~~[RCW 70.94.6511](~~(g)~~)

(3)(-) *Permitting Agency* means the Spokane Regional Clean Air Agency (SRCAA or Agency)(~~(-)~~) or Spokane County, any fire protection agency within Spokane County, Washington State Department of Natural Resources (DNR), or the Spokane County Conservation District; upon delegation by or signed agreement with SRCAA. ~~((one or more of the following entities, whenever SRCAA and an entity have signed an agreement regarding a permitting program or SRCAA has delegated administration of the permitting program to one or more of the following entities, provided such delegation of authority has not been withdrawn: Spokane County, any fire protection agency within Spokane County,~~

~~Washington State Department of Natural Resources (DNR), or the Spokane County Conservation District.~~) [RCW 70.94.6530](~~(g)~~)

(4)(-) *Person* means any individual(s), firm, public corporation, private corporation, association, partnership, political subdivision, municipality, or government agency. It includes any person who has applied for and received a permit for outdoor burning; any person allowing, igniting, or attending a fire; or any person who owns or controls property on which outdoor burning occurs.

(5)(-) *Responsible Person* means any person who has applied for and received a permit for outdoor burning, or any person allowing, igniting, or attending to a fire, or any person who owns or controls property on which outdoor burning occurs.

~~(D)~~ Outdoor Burning Permitted.

(1)(-) Firefighting Instruction Fires. ~~((f))~~[WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)](~~(g)~~)

Firefighting instruction fires are fires for the purpose of firefighter training, including, but not limited to aircraft crash rescue fire training, extinguisher training, forest fire training, and structural fire training. Unless specified otherwise, ~~(this subsection)~~ Article VI, Section 6.01 (D)(1) serves as a general permit by ~~((SRCAA))~~ the Agency.

(a)(-) Aircraft Crash Rescue Fire Training. ~~((f))~~[RCW 70.94.6546(1-2), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)](~~(g)~~)

(i)1. Aircraft crash rescue training fires ~~((conducted pursuant to))~~ meeting all of the following criteria do not require a permit:

a.~~((a))~~ Firefighters participating in the training fires are limited to those who provide firefighting support to an airport that is either certified by the federal aviation administration or operated in support of military or governmental activities.

b.~~((b))~~ The fire training may not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715 for the area where training is to be conducted.

c.~~((c))~~ The number of training fires allowed each year without a written permit shall be the minimum number necessary to meet federal aviation administration or other federal safety requirements.

d.~~((d))~~ The facility shall use current technology and be operated in a manner that will minimize, to the extent possible, the air contaminants generated during the training fire.

e.~~((e))~~ The organization conducting the training shall notify the local fire district or fire department prior to commencement of the training. The organization conducting the training shall also notify ~~((SRCAA))~~ the Agency prior to commencement of the training.

(ii)2. Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01(F)~~((F of this Regulation))~~ apply to all aircraft crash rescue fire training fires as listed below:

a.~~((a))~~ Aircraft crash rescue fire training fires are exempt from the following:

i. (F)(2)~~((F-2))~~ Hauled Materials

ii. (F)(6)~~((F-6))~~ Containers

- iii. ~~(F)(8)~~~~((F-8-))~~ Distances
- iv. ~~(F)(10)~~~~((F-10-))~~ Burn Hours
- v. ~~(F)(11)~~~~((F-11-))~~ Number of Piles
- vi. ~~(F)(12)~~~~((F-12-))~~ Fuel Area
- vii. ~~(F)(13)~~~~((F-13-))~~ Written Permits
- viii. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

~~b.~~~~((b))~~ Aircraft crash rescue fire training fires (~~are not exempt from~~) must comply with the following:

- i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials (except petroleum products)
- ii. ~~(F)(3)~~~~((F-3-))~~ Curtailments
- iii. ~~(F)(4)~~~~((F-4-))~~ Nuisance
- iv. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others
- v. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire
- vi. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission
- vii. ~~(F)(14)~~~~((F-14-))~~ Property Access
- viii. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

~~((iii))~~~~3.~~ Persons conducting aircraft crash rescue fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

~~(b)~~~~((b))~~ Extinguisher Training. ~~((f))~~[WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)]~~((f))~~

Extinguisher training fires of short-duration for instruction on the proper use of hand-held fire extinguishers may be conducted without a written permit provided all of the following requirements are met:

~~((i))~~~~1.~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01 ~~(F)~~~~((F of this Regulation))~~ apply to extinguisher training fires as listed below:

~~a.~~~~((a))~~ Extinguisher training fires are exempt from the following:

- i. ~~(F)(2)~~~~((F-2-))~~ Hauled Materials
- ii. ~~(F)(6)~~~~((F-6-))~~ Containers
- iii. ~~(F)(8)~~~~((F-8-))~~ Distances
- iv. ~~(F)(10)~~~~((F-10-))~~ Burn Hours
- v. ~~(F)(11)~~~~((F-11-))~~ Number of Piles
- vi. ~~(F)(12)~~~~((F-12-))~~ Fuel Area
- vii. ~~(F)(13)~~~~((F-13-))~~ Written Permits
- viii. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

~~b.~~~~((b))~~ Extinguisher training fires (~~are not exempt from~~) must comply with the following:

i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials (except as provided for in Section 6.01 ~~(D)(1)(b)2.~~ ~~((D-1.b.ii of this Regulation, below))~~)

- ii. ~~(F)(3)~~~~((F-3-))~~ Curtailments
- iii. ~~(F)(4)~~~~((F-4-))~~ Nuisance
- iv. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others
- v. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire
- vi. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission
- vii. ~~(F)(14)~~~~((F-14-))~~ Property Access
- viii. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

~~((ii))~~~~2.~~ Flammable or combustible materials used during the fire extinguisher training shall be limited to:

~~a.~~~~((a))~~ Less than two (2) gallons of clean kerosene or diesel fuel oil per training exercise, provided that gasoline or gasoline mixed with diesel or kerosene may be used only by

local fire departments, fire protection agencies, fire marshals, or fire districts;

~~b.~~~~((2))~~ As much gaseous fuel (propane or natural gas) as required for the training exercise; or

~~c.~~~~((3))~~ Less than one-half (0.5) cubic yards of clean, solid combustible materials per training exercise. Examples of solid combustible materials are seasoned wood, untreated scrap lumber, and unused paper.

~~((iii))~~~~3.~~ All training must be conducted by fire training officials or an instructor qualified to perform fire training. A copy of the written training plan, and when applicable, instructor qualifications, must be provided to ~~((SRCAA))~~ the Agency upon request.

~~((iv))~~~~4.~~ Prior to the training, the responsible person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and meet all applicable local ordinances and permitting requirements.

~~((v))~~~~5.~~ Persons conducting extinguisher training fires are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

~~(c)~~~~((c))~~ Forest Fire Training. ~~((f))~~[RCW 70.94.6546(4), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)]~~((f))~~

A fire protection agency may conduct forest fire training fires consisting of only natural vegetation without a written permit.

~~((i))~~~~1.~~ Unless specifically authorized in writing by ~~((SRCAA))~~ the Agency, the prohibitions/requirements in Section 6.01 ~~(F)~~~~((F of this Regulation))~~ apply to forest fire training fires as listed below:

~~a.~~~~((a))~~ Forest fire training fires are exempt from the following:

- i. ~~(F)(2)~~~~((F-2-))~~ Hauled Materials
- ii. ~~(F)(6)~~~~((F-6-))~~ Containers
- iii. ~~(F)(8)~~~~((F-8-))~~ Distances
- iv. ~~(F)(10)~~~~((F-10-))~~ Burn Hours
- v. ~~(F)(11)~~~~((F-11-))~~ Number of Piles
- vi. ~~(F)(12)~~~~((F-12-))~~ Fuel Area
- vii. ~~(F)(13)~~~~((F-13-))~~ Written Permits
- viii. ~~(F)(15)~~~~((F-15-))~~ Areas Prohibited

~~b.~~~~((b))~~ Forest fire training fires (~~are not exempt from~~) must comply with the following:

- i. ~~(F)(1)~~~~((F-1-))~~ Prohibited Materials
- ii. ~~(F)(3)~~~~((F-3-))~~ Curtailments
- iii. ~~(F)(4)~~~~((F-4-))~~ Nuisance
- iv. ~~(F)(5)~~~~((F-5-))~~ Burning Detrimental to Others
- v. ~~(F)(7)~~~~((F-7-))~~ Extinguishing a Fire
- vi. ~~(F)(9)~~~~((F-9-))~~ Landowner Permission
- vii. ~~(F)(14)~~~~((F-14-))~~ Property Access
- viii. ~~(F)(16)~~~~((F-16-))~~ Other Requirements

~~((ii))~~~~2.~~ Grassland or wildland fires used for the purpose of forest fire training fires qualify as forest firefighting instruction fires. Grassland or wildland fires not used for the purpose of forest fire instruction fires shall be performed pursuant to Section 6.01 ~~(D)(1)(e).~~ ~~((D-1.e of this Regulation, Section 6.01.D.1.e is))~~ Types of Firefighting Instruction Fires Not Listed Above.

~~((iii))~~~~3.~~ Persons conducting forest fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

(d)(-)(-) Structural Fire Training. (~~((f))~~) [RCW 52.12.150 (4), (RCW 70.94.6546(3), WAC 173-425-020 (2)(f), WAC 173-425-030(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)] (~~(g)~~)

A fire protection agency may conduct structural fire training without a written permit provided all of the following requirements are met:

(~~(h)~~)1. Unless specifically authorized in writing by (~~(SRCAA)~~) the Agency, the prohibitions/requirements in Section 6.01 (~~(F)~~) (~~(-F of this Regulation)~~) apply to structural fire training fires as listed below:

a. (~~((a))~~) Structural fire training fires are exempt from the following:

i. (~~(F)(1)~~) (~~(F-1-)~~) Prohibited Materials (except as provided for in Section 6.01 (~~(D)(1)(d)4.~~) (~~(-D-1.d.iv of this Regulation, below)~~))

ii. (~~(F)(2)~~) (~~(F-2-)~~) Hauled Materials

iii. (~~(F)(6)~~) (~~(F-6-)~~) Containers

iv. (~~(F)(8)~~) (~~(F-8-)~~) Distances

v. (~~(F)(10)~~) (~~(F-10-)~~) Burn Hours

vi. (~~(F)(11)~~) (~~(F-11-)~~) Number of Piles

vii. (~~(F)(12)~~) (~~(F-12-)~~) Fuel Area

viii. (~~(F)(13)~~) (~~(F-13-)~~) Written Permits

ix. (~~(F)(15)~~) (~~(F-15-)~~) Areas Prohibited

b. (~~((b))~~) Structural fire training fires are (~~(are not exempt from)~~) must comply with the following:

i. (~~(F)(3)~~) (~~(F-3-)~~) Curtailments

ii. (~~(F)(4)~~) (~~(F-4-)~~) Nuisance

iii. (~~(F)(5)~~) (~~(F-5-)~~) Burning Detrimental to Others

iv. (~~(F)(7)~~) (~~(F-7-)~~) Extinguishing a Fire

v. (~~(F)(9)~~) (~~(F-9-)~~) Landowner Permission

vi. (~~(F)(14)~~) (~~(F-14-)~~) Property Access

vii. (~~(F)(16)~~) (~~(F-16-)~~) Other Requirements

(~~(h)~~)2. The owner and fire protection agency(ies) must meet the requirements in SRCAA Regulation I, Article IX - Asbestos Control Standards and (~~(SRCAA Regulation I-)~~) Article X, Section 10.09 - Asbestos Project And Demolition Notification Waiting Period And Fees, prior to conducting the training. This includes clearly identifying structures on the Notice of Intent that will be used for structural fire training.

(~~(h)~~)3. The fire protection agency(ies) conducting the fire training must have a fire training plan available to (~~(SRCAA)~~) the Agency upon request, and the purpose of the structural fire must be to train firefighters.

(~~(i)~~)4. Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile shall not be burned unless such materials are an essential part of the fire training exercise and are described as such in the fire training plan. Materials removed from the structure(s) must be disposed of in a lawful manner prior to the training exercise.

(~~(i)~~)5. Structural fire training shall not be conducted if, in consideration of prevailing air patterns, emissions from the fire (~~(is)~~) are likely to cause a nuisance.

(~~(i)~~)6. The fire protection agency(ies) conducting the training must provide notice to the owners of property adjoining the property on which the fire training will occur, to other persons who potentially will be impacted by the fire, and to

additional persons (~~(in a broader manner)~~) if specifically (~~(requested)~~) directed by (~~(SRCAA)~~) the Agency.

(~~(i)~~)7. Structural fire training shall be performed in accordance with RCW 52.12.150.

(~~(i)~~)8. Persons conducting structural fire training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

(e)(-)(-) Types of Firefighting Instruction Fires Not Listed Above. (~~((f))~~) [WAC 173-425-020 (2)(f), WAC 173-425-030 (5), WAC 173-425-050, WAC 173-425-060 (1), (2)(f) & (3-4)] (~~(g)~~)

A fire protection agency may conduct firefighting instruction fires not provided for in Article VI, Section 6.01 (~~(D)(1)(a - d)~~) (~~(-D-1.a - d of this Regulation)~~) (e.g., car rescue training fires, simulated fires at permanent fire training facilities, simulated fires via mobile fire training units, etc.) if all of the following are met:

(~~(h)~~)1. Unless specifically authorized in writing by (~~(SRCAA)~~) the Agency, the prohibitions/requirements in Section 6.01 (~~(F)~~) (~~(-F of this Regulation)~~) apply to other firefighting instruction fires as listed below:

a. (~~((a))~~) Other firefighting training fires are exempt from the following:

i. (~~(F)(2)~~) (~~(F-2-)~~) Hauled Materials

ii. (~~(F)(6)~~) (~~(F-6-)~~) Containers

iii. (~~(F)(8)~~) (~~(F-8-)~~) Distances

iv. (~~(F)(10)~~) (~~(F-10-)~~) Burn Hours

v. (~~(F)(11)~~) (~~(F-11-)~~) Number of Piles

vi. (~~(F)(12)~~) (~~(F-12-)~~) Fuel Area

vii. (~~(F)(13)~~) (~~(F-13-)~~) Written Permits

viii. (~~(F)(15)~~) (~~(F-15-)~~) Areas Prohibited

b. (~~((b))~~) Other firefighting training fires (~~(are not exempt from)~~) must comply with the following:

i. (~~(F)(1)~~) (~~(F-1-)~~) Prohibited Materials (except as provided for in Section 6.01 (~~(D)(1)(e)3.~~) (~~(-D-1.e.iii of this Regulation)~~))

ii. (~~(F)(3)~~) (~~(F-3-)~~) Curtailments

iii. (~~(F)(4)~~) (~~(F-4-)~~) Nuisance

iv. (~~(F)(5)~~) (~~(F-5-)~~) Burning Detrimental to Others

v. (~~(F)(7)~~) (~~(F-7-)~~) Extinguishing a Fire

vi. (~~(F)(9)~~) (~~(F-9-)~~) Landowner Permission

vii. (~~(F)(14)~~) (~~(F-14-)~~) Property Access

viii. (~~(F)(16)~~) (~~(F-16-)~~) Other Requirements

(~~(h)~~)2. The fire protection agency(ies) conducting the fire training must have a fire-training plan available to (~~(SRCAA)~~) the Agency upon request, and the purpose of the structural fire must be to train firefighters.

(~~(h)~~)3. The prohibited materials described in Article VI, Section 6.01 (~~(F)(2)~~) (~~(-F-2 of this Regulation)~~) may not be burned in any fire unless such materials are an essential part of the fire training exercise and are described as such in the fire training plan.

(~~(i)~~)4. Persons conducting other firefighting training are responsible for responding to citizen inquiries and resolving citizen complaints caused by the training activity.

(2)(-)(-) Fire Hazard Abatement Fires.

(a)(-)(-) A permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01 (~~(E)~~) (~~(-E of this Regulation)~~) for fire hazard abatement fires. All fire hazard abatement fires require a written permit unless an

alternate permitting method is specified in a written agreement (e.g. Memorandum of Understanding) between SRCAA and the permitting agency.

(b)(-) Unless specifically authorized in writing by the permitting agency and pursuant to a written agreement between SRCAA and the permitting agency, the prohibitions/requirements in Section 6.01(F)(-F of this Regulation) apply as listed below:

((#)1. Fire hazard abatement fires may be exempt from the following at the permitting agency's discretion:

- i. (F)(8)(F-8-) Distances
- ii. (F)(11)(F-11-) Number of Piles
- iii. (F)(12)(F-12-) Fuel Area

((#)2. Fire hazard abatement fires ~~((are not exempt from))~~ must comply with the following:

- i. (F)(1)(F-1-) Prohibited Materials
- ii. (F)(2)(F-2-) Hauled Materials
- iii. (F)(3)(F-3-) Curtailments
- iv. (F)(4)(F-4-) Nuisance
- v. (F)(5)(F-5-) Burning Detrimental to Others
- vi. (F)(6)(F-6-) Containers
- vii. (F)(7)(F-7-) Extinguishing a Fire
- viii. (F)(9)(F-9-) Landowner Permission
- ix. (F)(10)(F-10-) Burn Hours
- x. (F)(13)(F-13-) Written Permits
- xi. (F)(14)(F-14-) Property Access
- xii. (F)(15)(F-15-) Areas Prohibited
- xiii. (F)(16)(F-16-) Other Requirements

(3)(-) Flag Retirement Ceremony Fires. ((#)[RCW 70.94.6522, WAC 173-425-020 (2)(j), WAC 173-425-030 (15), WAC 173-425-040(5), WAC 173-425-060 (1)(b), and WAC 173-425-060 (1), (2)(j) & (3-4)](h))

A flag retirement ceremony fire is a ceremonial fire for the purpose of disposing of cotton or wool flags of the United States of America, by fire, pursuant to 36 United States Code 176(k). A flag retirement ceremony fire is a type of other outdoor fire as provided for in WAC 173-425-030(15). The ceremony generally involves placing the flags one at a time in a small fire during the ceremony until the last flag is burned.

(a)(-This subsection) Article VI, Section 6.01 (D)(3) serves as a general permit by ((SRCAA) the Agency.

(b)(-) The prohibitions/requirements in Section 6.01(F)(-F of this Regulation) apply to flag retirement ceremony fires as listed below:

((#)1. Unless specifically authorized in writing by ((SRCAA) the Agency, flag retirement ceremony fires are exempt from the following:

- i. (F)(2)(F-2-) Hauled Materials
- ii. (F)(6)(F-6-) Containers
- iii. (F)(8)(F-8-) Distances
- iv. (F)(10)(F-10-) Burn Hours
- v. (F)(11)(F-11-) Number of Piles
- vi. (F)(12)(F-12-) Fuel Area
- vii. (F)(13)(F-13-) Written Permits
- viii. (F)(15)(F-15-) Areas Prohibited

((#)2. Flag retirement ceremony fires are ~~((are not exempt from))~~ must comply with the following:

i. (F)(1)(F-1-) Prohibited Materials (except for cotton or wool flags and minimal accelerant necessary to burn the flags)

ii. (F)(3)(F-3-) Curtailments

iii. (F)(4)(F-4-) Nuisance

iv. (F)(5)(F-5-) Burning Detrimental to Others

v. (F)(7)(F-7-) Extinguishing a Fire

vi. (F)(9)(F-9-) Landowner Permission

vii. (F)(14)(F-14-) Property Access

viii. (F)(16)(F-16-) Other Requirements

(c)(-) A ceremony for disposal of unserviceable cotton or wool flags using methods other than burning (e.g. burying or recycling) or burning a small number of representative cotton or wool flags for the flag retirement ceremony is recommended, but not required.

(d)(-) Burning flags made of synthetic materials (e.g. nylon) is prohibited.

(4)(-) Indian Ceremonial Fires. ((#)[RCW 70.94.6550, WAC 173-425-020 (2)(h), WAC 173-425-030(8), WAC 173-425-050, WAC 173-425-060 (1), (2)(h) & (3-4)](h))

Indian ceremonial fires are fires using charcoal or clean, dry, bare, untreated wood (for the purpose of this definition, it includes commercially manufactured fire logs) necessary for Native American Ceremonies (i.e. conducted by and for Native Americans) if part of a religious ritual.

(a)(-This subsection) Article VI, Section 6.01 (D)(4) serves as a general permit by ((SRCAA) the Agency.

(b)(-) Unless specifically authorized in writing by ((SRCAA) the Agency, the prohibitions/requirements in Section 6.01(F)(-F of this Regulation) apply to Indian ceremonial fires as listed below:

((#)1. Indian ceremonial fires are exempt from the following:

- i. (F)(2)(F-2-) Hauled Materials
- ii. (F)(6)(b)(F-6-b-) Containers
- iii. (F)(10)(F-10-) Burn Hours
- iv. (F)(13)(F-13-) Written Permits
- v. (F)(15)(F-15-) Areas Prohibited

((#)2. Indian ceremonial fires ~~((are not exempt from))~~ must comply with the following:

- i. (F)(1)(F-1-) Prohibited Materials
- ii. (F)(3)(F-3-) Curtailments
- iii. (F)(4)(F-4-) Nuisance
- iv. (F)(5)(F-5-) Burning Detrimental to Others
- v. (F)(6)(F-6-a-) Containers (burn barrels)
- vi. (F)(7)(F-7-) Extinguishing a Fire
- vii. (F)(8)(F-8-) Distances
- viii. (F)(9)(F-9-) Landowner Permission
- ix. (F)(11)(F-11-) Number of Piles
- x. (F)(12)(F-12-) Fuel Area
- xi. (F)(14)(F-14-) Property Access
- xii. (F)(16)(F-16-) Other Requirements

(5)(-) Land Clearing Fires. ((#)[WAC 173-425-020 (2) (b), WAC 173-425-030(9), WAC 173-425-040(1-5), WAC 173-425-050, WAC 173-425-060 (1)(b) and WAC 173-425-060 (1), (2)(b) & (3-4)](h))

(a)(-) All land clearing burning, except for silvicultural-to-agricultural and residential land clearing burning, is prohibited effective January 13, 2002.

(b)(-) Silvicultural-to-agricultural burning is prohibited after April 30, 2009.

(c)(-) Residential land clearing burning is prohibited after December 31, 2010. Residential land clearing fires are

limited to fires consisting of trees, shrubbery, or other natural vegetation from land clearing projects (i.e., projects that clear the land surface so it can be developed, used for a different purpose, or left unused) where the natural vegetation is cleared from less than one acre of forested land on a five (5) acre or larger parcel of land in non-commercial ownership. ~~((f))~~[RCW 70.94.6526(2)]~~((h))~~. Residential land clearing fires may also have the effect of abating or prevention of a forest fire hazard and thereby fit the definition of silvicultural burning. In those situations where residential land clearing burning consists of materials cleared from less than one (1) acre of forested land on a five (5) acre or larger parcel of land in non-commercial ownership is determined by DNR to meet the criteria to be defined as silvicultural burning, SRCAA may defer the decision to DNR to approve the fire and issue a permit pursuant to a Memorandum of Understanding between SRCAA and DNR. In so doing, DNR acknowledges that the fire is silvicultural burning and subject to Chapter 332-24 WAC.

(6)(-)(-) Rare and Endangered Plant Regeneration Fires. ~~((f))~~[RCW 70.94.6524, RCW 70.94.6534(2), WAC 173-425-020 (2)(g), WAC 173-425-030(19), WAC 173-425-050, WAC 173-425-060 (1), (2)(g), (3-4) & (6)]~~((-))~~

Rare and endangered plant regeneration fires are fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in Chapter 79.70 RCW.

(a)(-)(-) Pursuant to RCW 70.94.6534(2), the appropriate fire protection agency permits and regulates rare and endangered plant regeneration fires on lands where the department of natural resources does not have fire protection responsibility.

(b)(-)(-) Unless otherwise allowed or required by the fire protection agency, the prohibitions/requirements in Article VI, Section 6.01(F)~~((F of this Regulation))~~ apply to rare and endangered plant regeneration fires as listed below:

(i)(-) 1. Rare and endangered plant regeneration fires are exempt from the following:

- i. ~~(F)(8)((F-8-))~~ Distances
- ii. ~~(F)(10)((F-10-))~~ Burn Hours
- iii. ~~(F)(11)((F-11-))~~ Number of Piles
- iv. ~~(F)(12)((F-12-))~~ Fuel Area
- v. ~~(F)(13)((F-13-))~~ Written Permits
- vi. ~~(F)(15)((F-15-))~~ Areas Prohibited

~~((h))~~2. Rare and endangered plant regeneration fires ((are not exempt from)) must comply with the following:

- i. ~~(F)(1)((F-1-))~~ Prohibited Materials
- ii. ~~(F)(2)((F-2-))~~ Hauled Materials
- iii. ~~(F)(3)((F-3-))~~ Curtailments
- iv. ~~(F)(4)((F-4-))~~ Nuisance
- v. ~~(F)(5)((F-5-))~~ Burning Detrimental to Others
- vi. ~~(F)(6)((F-6-))~~ Containers
- vii. ~~(F)(7)((F-7-))~~ Extinguishing a Fire
- viii. ~~(F)(9)((F-9-))~~ Landowner Permission
- ix. ~~(F)(14)((F-14-))~~ Property Access
- x. ~~(F)(16)((F-16-))~~ Other Requirements

(c)(-)(-) Pursuant to WAC 173-425-060(6), any agency that issues permits, or adopts a general permit for rare and endangered plant regeneration fires is responsible for field response to outdoor burning complaints and enforcement of

all permit conditions and requirements of Chapter 173-425 WAC unless another agency has agreed under WAC 173-425-060 (1)(a) to be responsible for certain field response or enforcement activities. Except for enforcing fire danger burn bans as referenced in WAC 173-425-050 (3)(a)(iii), ~~((SRCAA))~~ the Agency may also perform complaint response and enforcement activities.

(7)(-)(-) Recreational Fires. [WAC 173-425-020 (2)(i), WAC 173-425-030(21), WAC 173-425-050, WAC 173-425-060 (1), (2)(i) & (3-4)]~~((h))~~

A recreational fire is a small fire with a fuel area no larger than three (3) feet in diameter and two (2) feet in height and is limited to cooking fires, campfires, and fires for pleasure using charcoal or firewood in designated areas on public lands (e.g. campgrounds) or on private property. Firewood refers to clean, dry (e.g., tree trunk wood that is split and seasoned and has less than 20% ~~((percent))~~) moisture content), bare, wood from trees. Commercially manufactured fire logs are acceptable fuels unless determined otherwise by ~~((SRCAA))~~ the Agency. Fires fueled by liquid or gaseous fuels (e.g. propane or natural gas barbecues) are not considered recreational fires. Fires used for debris disposal are not considered recreational fires.

(a)(-)(-) This ~~((subsection))~~ Article VI, Section 6.01 (D) (7) serves as a general permit by ~~((SRCAA))~~ the Agency.

(b)(-)(-) The prohibitions/requirements in Section 6.01(F)~~((F of this Regulation))~~ apply to recreational fires as listed below:

~~((h))~~1. Recreational fires are exempt from the following:

- i. ~~(F)(2)((F-2-))~~ Hauled Materials
- ii. ~~(F)(6)(b)((F-6-b-))~~ Containers
- iii. ~~(F)(10)((F-10-))~~ Burn Hours
- iv. ~~(F)(13)((F-13-))~~ Written Permits
- v. ~~(F)(15)((F-15-))~~ Areas Prohibited

~~((h))~~2. Recreational fires ((are not exempt from)) must comply with the following:

- i. ~~(F)(1)((F-1-))~~ Prohibited Materials
- ii. ~~(F)(3)((F-3-))~~ Curtailments
- iii. ~~(F)(4)((F-4-))~~ Nuisance
- iv. ~~(F)(5)((F-5-))~~ Burning Detrimental to Others
- v. ~~(F)(6)(a)((F-6-a-))~~ Containers (burn barrels)
- vi. ~~(F)(7)((F-7-))~~ Extinguishing a Fire
- vii. ~~(F)(8)((F-8-))~~ Distances
- viii. ~~(F)(9)((F-9-))~~ Landowner Permission
- ix. ~~(F)(11)((F-11-))~~ Number of Piles
- x. ~~(F)(12)((F-12-))~~ Fuel Area
- xi. ~~(F)(14)((F-14-))~~ Property Access
- xii. ~~(F)(16)((F-16-))~~ Other Requirements

(8)(-)(-) Residential Fires (also referred to as Residential Burning or Residential Yard and Garden Debris Burning). ~~((f))~~[WAC 173-425-020 (2)(a), WAC 173-425-030(22), WAC 173-425-040 (1-3) & (5), WAC 173-425-050, WAC 173-425-060 (1), (2)(a) & (3-6)]

A residential fire is an outdoor fire consisting of natural yard and garden debris (i.e., dry garden trimmings, dry tree clippings, dry leaves, etc.) originating on the maintained/improved area of residential property (i.e. lands immediately adjacent and in close proximity to a human dwelling), and burned on such lands by the property owner and/or any other responsible person.

(a)(-) A permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01(E) (~~(F of this Regulation)~~). All residential fires require a written permit unless an alternate permitting method (e.g. general permit adopted by rule) is specified in a written agreement (e.g. Memorandum of Understanding) between SRCAA and the permitting agency.

(b)(-) The prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply to residential fires as listed below:

(i) 1. No exemptions apply to residential fires.

(ii) 2. Residential fires (~~(are not exempt from)~~) must comply with the following:

i. ~~(F)(1)(F-1)~~ Prohibited Materials

ii. ~~(F)(2)(F-2)~~ Hauled Materials

iii. ~~(F)(3)(F-3)~~ Curtailments

iv. ~~(F)(4)(F-4)~~ Nuisance

v. ~~(F)(5)(F-5)~~ Burning Detrimental to Others

vi. ~~(F)(6)(F-6)~~ Containers

vii. ~~(F)(7)(F-7)~~ Extinguishing a Fire

viii. ~~(F)(8)(F-8)~~ Distances

ix. ~~(F)(9)(F-9)~~ Landowner Permission

x. ~~(F)(10)(F-10)~~ Burn Hours

xi. ~~(F)(11)(F-11)~~ Number of Piles

xii. ~~(F)(12)(F-12)~~ Fuel Area (except as provided in Section 6.01 (D)(8)(c) (~~(D-8-e of this Regulation, below)~~))

xiii. ~~(F)(13)(F-13)~~ Written Permits

xiv. ~~(F)(14)(F-14)~~ Property Access

xv. ~~(F)(15)(F-15)~~ Areas Prohibited

xvi. ~~(F)(16)(F-16)~~ Other Requirements

(c)(-) The fuel area is limited to four (4) feet in diameter and three (3) feet in height unless the written permit issued by the permitting agency specifically states otherwise. Under no circumstance shall the fuel area be greater than ten (10) feet in diameter and six (6) feet in height.

(d)(-) No vegetation shall exceed four (4) inches in diameter unless the permitting agency provides a site-specific exemption in a written permit. If larger diameter vegetation is allowed, the fire shall be constructed using heavy equipment such as a track hoe or excavator with an operator on site at all times. Fans must be employed to improve combustion.

(e)(-) Residential fires must be at least five hundred (500) feet away from forest slash.

(f)(-) Residential fires must be at least fifty (50) feet away from any adjacent land under different ownership unless the permitting agency provides a site-specific exception in the written permit and the respective neighboring landowner or landowner's designated representative gives the person responsible for burning approval to burn within fifty (50) feet of his/her land.

(g)(-) In addition to the prohibitions in Section 6.01(F)(15)(~~F-15~~), residential burning is prohibited within any area where a permitting agency does not administer a residential burning program.

(9)(-) Social Event Fires. ((f))[WAC 173-425-020 (2) (i), WAC 173-425-030(21), WAC 173-425-050, WAC 173-425-060 (1), (2)(i) & (4)](g)

A social event fire is a fire that may be greater than three (3) feet in diameter and two (2) feet in height and unless otherwise approved by ((SRCAA)) the Agency, is limited to

events or celebrations open to the general public. A social event fire is limited to using charcoal or firewood which occurs in designated areas on public lands or on private property. Firewood refers to clean, dry (e.g., tree trunk wood that is split and seasoned with less than 20% (~~percent~~) moisture content), bare, wood from trees. Commercially manufactured fire logs are acceptable fuels. Fires used for debris disposal are not considered social event fires.

(a)(-) A written permit from ((SRCAA)) the Agency is required pursuant to Article VI, Section 6.01(E) (~~(F of this Regulation)~~) and, unless otherwise approved by ((SRCAA)) the Agency, must be submitted at least ten (10) working days prior to the first proposed burn date.

(b)(-) Unless specifically authorized in writing by ((SRCAA)) the Agency, the prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply as listed below:

(i) 1. Social event fires may be exempt from the following at ((SRCAA's)) the Agency's discretion:

i. ~~(F)(2)(F-2)~~ Hauled Materials

ii. ~~(F)(6)(b)(F-6-b)~~ Containers

iii. ~~(F)(8)(F-8)~~ Distances

iv. ~~(F)(10)(F-10)~~ Burn Hours

v. ~~(F)(11)(F-11)~~ Number of Piles

vi. ~~(F)(12)(F-12)~~ Fuel Area

vii. ~~(F)(15)(F-15)~~ Areas Prohibited

(ii) 2. Social event fires (~~(are not exempt from)~~) must comply with the following:

i. ~~(F)(1)(F-1)~~ Prohibited Materials

ii. ~~(F)(3)(F-3)~~ Curtailments

iii. ~~(F)(4)(F-4)~~ Nuisance

iv. ~~(F)(5)(F-5)~~ Burning Detrimental to Others

v. ~~(F)(6)(a)(F-6-a)~~ Containers (burn barrels)

vi. ~~(F)(7)(F-7)~~ Extinguishing a Fire

vii. ~~(F)(9)(F-9)~~ Landowner Permission

viii. ~~(F)(13)(F-13)~~ Written Permits

ix. ~~(F)(14)(F-14)~~ Property Access

x. ~~(F)(16)(F-16)~~ Other Requirements

(10)(-) Storm or Flood Debris Fires. ((f))[RCW 70.94.-743 (1)(c), WAC 173-425-020 (2)(c), WAC 173-425-030 (24), WAC 173-425-040(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(c) & (3-4)](g)

Storm and flood debris fires are fires consisting of natural vegetation deposited on lands by storms or floods that occurred within the previous twenty-four (24) months, and resulted in an emergency being declared or proclaimed in the area by city, county, or state government, and burned by the property owner or other responsible person on lands where the natural vegetation was deposited by the storm or flood.

(a)(-) A written permit from ((SRCAA)) the Agency is required pursuant to Article VI, Section 6.01(E) (~~(F of this Regulation)~~) and, unless otherwise approved by ((SRCAA)) the Agency, must be submitted at least ten (10) working days prior to the first proposed burn date.

(b)(-) Unless specifically authorized in writing by ((SRCAA)) the Agency, the prohibitions/requirements in Section 6.01(F) (~~(F of this Regulation)~~) apply as listed below:

(i) 1. Storm or flood debris fires may be exempt from the following at ((SRCAA's)) the Agency's discretion:

i. ~~(F)(12)(F-12)~~ Fuel Area

(~~(#)~~)2. Storm or flood debris fires (~~(are not exempt from)~~) must comply with the following:

- ~~i. (F)(1)(F-1.)~~ Prohibited Materials
- ~~ii. (F)(2)(F-2.)~~ Hauled Materials
- ~~iii. (F)(3)(F-3.)~~ Curtailments
- ~~iv. (F)(4)(F-4.)~~ Nuisance
- ~~v. (F)(5)(F-5.)~~ Burning Detrimental to Others
- ~~vi. (F)(6)(F-6.)~~ Containers
- ~~vii. (F)(7)(F-7.)~~ Extinguishing a Fire
- ~~viii. (F)(8)(F-8.)~~ Distances
- ~~ix. (F)(9)(F-9.)~~ Landowner Permission
- ~~x. (F)(10)(F-10.)~~ Burn Hours
- ~~xi. (F)(11)(F-11.)~~ Number of Piles
- ~~xii. (F)(13)(F-13.)~~ Written Permits
- ~~xiii. (F)(14)(F-14.)~~ Property Access
- ~~xiv. (F)(15)(F-15.)~~ Areas Prohibited
- ~~xv. (F)(16)(F-16.)~~ Other Requirements

~~(11)(-)~~ Tumbleweed Fires. (~~(E)~~) [RCW 70.94.6554](~~(H)~~)

Tumbleweed fires are fires to dispose of dry plants (e.g., Russian Thistle and Tumbleweed Mustard Plants) that have been broken off, and rolled about, by the wind. Outdoor burning of tumbleweeds is prohibited. However, agricultural operations may burn tumbleweeds pursuant to Article VI, Section 6.11 (~~(of this Regulation)~~) and Chapter 173-430 WAC.

~~(12)(-)~~ Weed Abatement Fires. (~~(E)~~) [RCW 70.94.6552, Chapter 16-750 WAC, WAC 173-425-020 (2)(e), WAC 173-425-030(27), WAC 173-425-040(5), WAC 173-425-050, WAC 173-425-060 (1), (2)(e) & (3-4)](~~(H)~~)

A weed abatement fire is any outdoor fire undertaken for the sole purpose of disposing of noxious weeds identified in the state noxious weed list.

(a)(-) A written permit from a permitting agency other than SRCAA is required pursuant to Article VI, Section 6.01 (~~(E)~~) (~~(-E of this Regulation)~~).

(b)(-) The prohibitions/requirements in Section 6.01 (~~(F)~~) (~~(-F of this Regulation)~~) apply to weed abatement fires as listed below:

(~~(#)~~)1. Weed abatement fires may be exempt from the following at the permitting agency's discretion:

- ~~i. (F)(11)(F-11.)~~ Number of Piles (refer to Section 6.01 (~~(D)~~)(11)(c) (~~(-D-11-e of this Regulation)~~), below)
- ~~ii. (F)(12)(F-12.)~~ Fuel Area (refer to Section 6.01 (~~(D)~~)(11)(c) (~~(-D-11-e of this Regulation)~~), below)

(~~(#)~~)2. Weed abatement fires (~~(are not exempt from)~~) must comply with from the following:

- ~~i. (F)(1)(F-1.)~~ Prohibited Materials
- ~~ii. (F)(2)(F-2.)~~ Hauled Materials
- ~~iii. (F)(3)(F-3.)~~ Curtailments
- ~~iv. (F)(4)(F-4.)~~ Nuisance
- ~~v. (F)(5)(F-5.)~~ Burning Detrimental to Others
- ~~vi. (F)(6)(F-6.)~~ Containers
- ~~vii. (F)(7)(F-7.)~~ Extinguishing a Fire
- ~~viii. (F)(8)(F-8.)~~ Distances
- ~~ix. (F)(9)(F-9.)~~ Landowner Permission
- ~~x. (F)(10)(F-10.)~~ Burn Hours
- ~~xi. (F)(13)(F-13.)~~ Written Permits
- ~~xii. (F)(14)(F-14.)~~ Property Access
- ~~xiii. (F)(15)(F-15.)~~ Areas Prohibited
- ~~xiv. (F)(16)(F-16.)~~ Other Requirements

(c)(-) If burn piles are required by the permitting agency, the fuel area for each burn pile is limited to ten (10) feet in diameter and six (6) feet in height unless the written permit issued by the permitting agency specifically states otherwise.

(d)(-) Burning shall be limited to Monday through Friday and shall not be conducted on federally observed holidays.

~~(13)(-)~~ Other Outdoor Fires. (~~(E)~~) [RCW 70.94.6522, WAC 173-425-020 (2)(j), WAC 173-425-030(15), WAC 173-425-040(5), WAC 173-425-060 (1)(b), and WAC 173-425-060 (1), (2)(j) & (3-4)](~~(H)~~)

Other outdoor fires are any type of outdoor fires not specified in WAC 173-425-020 (2)(a-i).

(a)(-) Other outdoor burning will generally be limited by (~~(SRCAA)~~) the Agency to outdoor fires necessary to protect public health and safety.

(b)(-) Other outdoor burning will generally not be allowed unless (~~(SRCAA)~~) the Agency determines that extenuating circumstances exist that necessitate burning be allowed.

(c)(-) A permit application must be submitted at least ten (10) working days prior to the first proposed burn date unless (~~(SRCAA)~~) the Agency waives the advance application period. A written permit from (~~(SRCAA)~~) the Agency is required pursuant to Article VI, Section 6.01 (~~(E)~~) (~~(-E of this Regulation)~~) unless (~~(SRCAA)~~) the Agency approves a verbal or electronic permit in lieu of a written permit. The applicant is responsible for payment of a permit application fee in the amount specified in Article X, Section 10.13 (~~(of this Regulation)~~).

(~~(E)~~)(~~(E)~~) Application For and Permitting of Written Outdoor Burning Permits.

Outdoor burning requiring a written permit pursuant to Article VI, Section 6.01 (~~(D)~~) (~~(-D of this Regulation)~~) is subject to all of the following requirements:

~~(1)~~(-) Permit Application.

(a)(-) It shall be unlawful for any person to cause or allow outdoor burning unless an application for a written permit, including the required fee specified by the permitting agency (SRCAA's outdoor burning permit fees are specified in SRCAA's the Consolidated Fee Schedule pursuant to Article X, Section 10.13 (~~(of this Regulation)~~)) and any additional information requested by the permitting agency, has been submitted to the permitting agency on approved forms, in accordance with the advance application period as specified by the permitting agency.

(b)(-) Incomplete or inaccurate applications may be returned to the applicant as incomplete. The advance application period begins when a complete and accurate application, including the required fee, has been received by the permitting authority.

(c)(-) Unless otherwise approved by the permitting agency or unless specified otherwise in Section 6.01, applications will be accepted no more than ninety (90) days prior to the first proposed burn date.

(d)(-) A separate application must be completed and submitted to the appropriate permitting agency for each outdoor burn permit requested.

(e)(-) A permit for outdoor burning shall not be granted on the basis of a previous permit history.

(2)(-) Denial or Revocation of a Permit.

(a)(-) The permitting agency may deny a permit if it is determined by the permitting agency that the application is incomplete or inaccurate. The advance application period in Article X, Section 10.13 (~~(of this Regulation)~~) does not begin until a complete and accurate application, including any additional information requested by the permitting agency, is received by the permitting agency.

(b)(-) The permitting agency may deny a permit or revoke a previously issued permit if it is determined by the permitting agency that the application contained inaccurate information, or failed to contain pertinent information, and the information is deemed by the permitting agency to be significant enough to have a bearing on the permitting agency's decision to grant a permit.

(c)(-) An application for a permit shall be denied if the permitting agency determines that the proposed burning will cause or is likely to cause a nuisance (refer to Article VI, Section 6.01 ~~(F)(4)~~ ~~(F.4 of this Regulation)~~). In making this determination, the permitting agency may consider if the permit can be conditioned in such a way that burning is not likely to cause a nuisance (e.g., limit burning to specific wind directions, restrict burn hours, restrict pile size, etc.).

(d)(-) The permitting agency may deny a permit for other reasons and shall provide the reason(s) in the applicant's permit denial.

(3)(-) Permit Conditions. Permits may include requirements and restrictions beyond those specified in SRCAA Regulation I.

(4)(-) Permit Expiration. Written permits shall be valid for no more than thirty (30) consecutive calendar days unless specified otherwise in Section 6.01 ~~(D)~~ ~~(D)~~ or in the permit. In no circumstance will a permit be valid for more than one calendar year.

~~(F)~~ (E) Prohibitions/Requirements. ~~((F))~~ [WAC 173-425-050 & WAC 173-425-060(4)] ~~((F))~~

All of the following apply to all outdoor burning unless specified otherwise in Article VI, Section 6.01 (~~(of this Regulation)~~) or pursuant to a written permit:

(1)(-) Prohibited Materials. ~~((F))~~ [WAC 173-425-050(1)] ~~((F))~~

It is unlawful to burn prohibited materials. Prohibited materials include all of the following: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated or processed wood (other than commercially manufactured fire logs), construction and demolition debris (any material resulting from the construction, renovation, or demolition of buildings, roads, or other man made structures), metal, or any substance (other than natural vegetation or firewood) that releases dense smoke or obnoxious odors when burned, or normally releases toxic emissions when burned. (RCW 70.94.6512(1) and Attorney General Opinion 1993 #17).

(2)(-) Hauled Materials. ~~((F))~~ [WAC 173-425-050(2)] ~~((F))~~

It is unlawful for a fire to contain material that has been hauled from an area where outdoor burning of that material is prohibited.

(3)(-) Curtailments. ~~((F))~~ [RCW 70.94.6512, RCW 70.94.6516, WAC 173-425-030(2), WAC 173-425-030(7), WAC 173-425-050(3), WAC 173-425-060(4) & WAC 173-433-140] ~~((F))~~

(a)(-) The person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day prior to igniting a fire.

(b)(-) Outdoor burning is prohibited in specified geographical areas when one or more of the following occur:

(i) 1. The Washington State Department of Ecology (Ecology) has declared an air pollution episode.

(ii) 2. Ecology or SRCAA has declared impaired air quality.

(iii) 3. A fire protection authority ~~((F))~~ with jurisdiction has declared a fire danger burn ban, unless that authority grants an exception.

(c)(-) The person responsible for outdoor burning must extinguish the fire when an air pollution episode, impaired air quality condition, or fire danger burn ban that applies to the burning is declared. In this regard:

(i) 1. Smoke visible from all types of outdoor burning, except residential land clearing burning, after a time period of three (3) hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared, will constitute prima facie evidence of unlawful outdoor burning.

(ii) 2. Smoke visible from residential land clearing burning after a time period of eight (8) hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn ban is declared, will constitute prima facie evidence of unlawful outdoor burning.

(4)(-) Nuisance. ~~((F))~~ [RCW 70.94.030(2) & WAC 173-425-050(4)] ~~((F))~~

A nuisance refers to an emission of smoke or any other air contaminant that unreasonably interferes with the enjoyment of life and property. In addition to applicable odor nuisance regulations in Article VI, Section 6.04 (~~(of this Regulation)~~), it shall be unlawful for any person to conduct outdoor burning which causes a smoke or particulate nuisance. With respect to smoke or particulate from outdoor burning, ~~((SRCAA))~~ the Agency may take enforcement action under ~~((this))~~ Section 6.01 if the Control Officer or authorized representative has documented all of the following:

(a)(-) Visible smoke observed with natural or artificial light (e.g. flashlight) crossing the property line of the person making a complaint or particulate deposition on the property of the person making a complaint;

(b)(-) An affidavit from a person making a complaint ~~((that))~~ which demonstrates that they have experienced air contaminant emissions in sufficient quantities, and of such characteristics and duration, so as to unreasonably interfere with their enjoyment of life and property; and

(c)(-) The source of the smoke or particulate.

(5)(-) Burning Detrimental to Others. ~~((F))~~ [RCW 70.94.-040, RCW 70.94. ~~((650))~~ 6528(1), RCW 70.94.6516, and WAC 173-425-050(4)] ~~((F))~~

It is unlawful for any person to cause or allow outdoor burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person, or that causes damage to property or business.

(6)(-) Containers. ((f))[WAC 173-425-050(5)](g)

(a)(-) Burn barrels are prohibited.

(b)(-) Containers must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings no larger than one-half (0.5) inch.

(7)(-) Extinguishing a Fire. ((f))[WAC 173-425-050(6)(a) & WAC 173-425-060(4)](g)

(a)(-) A person(s) capable of completely extinguishing the fire must attend it at all times.

(b)(-) Fire extinguishing equipment must be at the fire and ready to use (e.g., charged garden hose, dirt, sand, water bucket, shovel, fire extinguisher, etc.).

(c)(-) All fires must be completely extinguished when the fire will be left unattended or when the activity for which the fire was intended is done, whichever occurs first.

(d)(-) Any person(s) responsible for unlawful outdoor burning must immediately and completely extinguish the fire. If the person(s) responsible for unlawful outdoor burning are unable or unwilling to extinguish an unlawful fire, they may be charged for fire suppression costs incurred by a fire protection agency.

(8)(-) Distances. ((f))[WAC 173-425-050 (6)(b) & WAC 173-425-060(4)](g)

(a)(-) All fires subject to Article VI, Section 6.01 ((~~of this Regulation~~)) must be at least fifty (50) feet away from any structure.

(b)(-) When material is burned on the ground, it must be placed on bare soil, green grass, or other similar area free of flammable materials for a distance adequate to prevent escape of the fire.

(9)(-) Landowner Permission. ((f))[WAC 173-425-050(6)(c)](g)

Permission from a landowner, or owner's designated representative, must be obtained before outdoor burning on landowner's property.

(10)(-) Burn Hours. ((f))[WAC 173-425-060(4)](g)

All burning must take place during daylight hours only. Burning shall not commence prior to sunrise, and all debris burning must be completely extinguished at least one hour prior to sunset. Smoke visible from burning within one hour of sunset will constitute prima facie evidence of unlawful outdoor burning.

(11)(-) Number of Piles. ((f))[WAC 173-425-060 (5)(c)(x)](g)

Only one (1) pile at a time may be burned (~~per~~) on contiguous parcels of property under same ownership. (~~and each~~) The pile must be extinguished before lighting another.

(12)(-) Fuel Area. ((f))[WAC 173-425-060(4)](g)

The fuel area shall be no larger than three (3) feet in diameter by two (2) feet in height.

(13)(-) Written Permits.

(a)(-) A copy of the written permit must be kept at the permitted burn site during the permitted burn, and must be

made available for review upon request of the permitting agency.

(b)(-) All conditions of a written permit issued by the permitting agency must be complied with.

(14)(-) Property Access. ((f))[RCW 70.94.200 & SRCAA Regulation I, Article II](g)

The Control Officer, or (~~duly~~) authorized representative, shall be allowed to access property at reasonable times to inspect fires specific to the control, recovery, or release of contaminants into the atmosphere in accordance with (~~(SRCAA Regulation I,)~~) Article II and RCW 70.94.200. For the purposes of outdoor burning, reasonable times include, but are not limited to, any of the following: when outdoor burning appears to be occurring, when the Control Officer or authorized representative is investigating air quality complaints filed with (~~(SRCAA)~~) the Agency, and/or there is reason to believe that air quality violations have occurred or may be occurring. No person shall obstruct, hamper, or interfere with any such inspection.

(15)(-) Areas Prohibited. ((f))[WAC 173-425-040](g)

Outdoor burning is prohibited in all of the following areas:

(a)(-) Within the Restricted Burn Area (also referred to as the No Burn Area), as defined by Resolution of the Board of Directors of SRCAA.

(b)(-) Within any Urban Growth Area (land, generally including and associated with an incorporated city, designated by a county for urban growth under RCW 36.70A.030), and with the exception of Fairchild Air Force Base, any area completely surrounded by any Urban Growth Area (e.g. "islands" of land within an Urban Growth Area).

(c)(-) Within any nonattainment area or former nonattainment area.

(d)(-) In any area where a reasonable alternative to burning exists for the area where burning is requested. For burning organic refuse, a reasonable alternative is considered one where there is a method for disposing of the organic refuse at a cost that is less than or equivalent to the median of all county tipping fees in the state for disposal of municipal solid waste. SRCAA shall determine the median of all county tipping fees in the state for disposal of municipal solid waste by obtaining the most recent solid waste tipping fees data available from Ecology (e.g. state profile map of Washington solid waste tipping fees available at <https://fortress.wa.gov/ecy/swicpublic>) or other relevant sources. Reasonable alternatives may include, but are not limited to, solid waste curbside pick-up, on-site residential composting or commercial composting operations, public or private chipping/grinding operations, public or private chipper rental service, public or private hauling services, energy recovery or incineration facility, public or private solid waste drop box, transfer station, or landfill.

(16)(-) Other Requirements.

All outdoor burning must comply with all other applicable local, state, and federal requirements.

(~~(G)~~)(G) Unlawful Outdoor Burning.

(~~(a)~~)(1) Failure of any person to comply with Chapter 70.94 RCW, Chapter 173-425 WAC, this Section, or permit conditions, shall be unlawful and may result in criminal or civil enforcement action taken, including penalties.

~~(b-)~~(2) Unlawful burning may result in any outdoor burning permit being permanently rescinded. This applies to written permits, general permits (permits by rule), and electronic and verbal permits. Once a permit is rescinded, approval from ~~((SRCAA))~~ the Agency must be obtained to burn again. Applicable fees for a new permit must be paid pursuant to Article X, Section 10.13.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.02 VISIBLE EMISSIONS

~~((A-))~~(A) Opacity Limit. It shall be unlawful for any person to cause or allow the emission of air contaminant from any emission point which equals or exceeds ~~((twenty percent))~~ 20% opacity for an aggregate of more than three (3) minutes in any one~~(-)~~hour period except:

(1)~~(-)~~ When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not equal or exceed ~~((twenty percent))~~ 20% opacity for more than fifteen (15) minutes in any eight (8) consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the ~~((Authority))~~ Agency shall be advised of the schedule.

(2)~~(-)~~ When the presence of uncombined water is the only reason for the failure of an emission to meet the requirements of this section. The burden of proof to establish the quantity of uncombined water in the emission shall lie with the owner or operator who is seeking to bring the emission from his equipment or process within the requirements of SRCAA Regulation I, Article VI, Section 6.02(A).

(3)~~(-)~~ When otherwise specifically permitted by Article VIII, Section 8.05 ~~((of this Regulation))~~ (i.e. solid fuel burning devices).

~~((B-))~~(B) Opacity Measurement. The opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

~~((C-))~~(C) Test Method and Procedures. Visible emissions shall be determined by using Ecology Test Method 9A.

~~((D-))~~(D) Emission Point. The emission limits of this section shall apply to each emission point regardless of the number of emissions units connected to a common stack.

AMENDATORY SECTION

SECTION 6.03 INCINERATOR BURNING AND INCINERATION HOURS

~~((A-))~~(A) Applicability. The ~~((Authority))~~ Agency~~((implements and enforces))~~ adopts by reference WAC 173-400-050, in Spokane County, except for 050 (4)(c)(ix) and

050 (5)(c)(xi). ~~((in addition to Parts))~~ In addition, the provisions of SRCAA Regulation I, Article VI, Section 6.03 (B through E) apply. ~~((of this Section. The more stringent requirement in WAC 173-400-050 or Section 6.03 supercedes the lesser.))~~

~~((B-))~~(B) Incinerators. It shall be unlawful for any person to burn any combustible refuse in any incinerator within the jurisdiction of this ~~((Authority))~~ Agency except in an approved multiple-chambered incinerator or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control. The Control Officer may require the installation of additional control apparatus on an incinerator of approved design, if he finds that it is not effectively controlling air pollution emissions or is the cause of legitimate complaints.

~~((C-))~~(C) Operation During Daylight Hours. It shall be unlawful for any person to cause or allow the operation of an incinerator at any time other than daylight hours, except with the approval of the Control Officer.

~~((D-))~~(D) Exception to Daylight Hours. Approval of the Control Officer for the operation of an incinerator at other than daylight hours may be granted upon the submission of a written request stating:

- (1)~~(-)~~ Full name and address of the applicant.
- (2)~~(-)~~ Location of the incinerator.
- (3)~~(-)~~ A description of the incinerator and its control equipment.
- (4)~~(-)~~ Good cause for issuance of such approval.
- (5)~~(-)~~ The hours, other than daylight hours, during which the applicant seeks to operate the equipment.
- (6)~~(-)~~ The length of time for which the exception is sought.

~~((E-))~~(E) Prohibited. No one shall install or operate an "Air Curtain Incinerator" or "Wigwam Burner" within the ~~((Authority's))~~ Agency's jurisdiction.

AMENDATORY SECTION

SECTION 6.04 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY

~~((A-))~~(A) Definitions.~~((s))~~ All definitions in SRCAA Regulation I, Article ((+)) I, Section 1.04 apply to Article VI, Section 6.04 ~~((this Section))~~, unless otherwise defined herein.

~~((B-))~~(B) Applicability. The Agency ~~((implements and enforces))~~ adopts by reference WAC 173-400-040 in Spokane County, except WAC 173-400-040(6), which is replaced by 6.04(C) and WAC 173-400-040(8), which is replaced by Section 6.07. In ~~((it))~~ addition to WAC 173-400-040, the provisions of Section 6.04 apply. The provisions of RCW 70.94.640 are herein incorporated by reference.

~~((C-))~~(C) Emissions Detrimental to Persons or Property. It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be:

- (1)~~(-)~~ Injurious to the health or safety of human, animal, or plant life;
- (2)~~(-)~~ Injurious or cause damage to property; or
- (3)~~(-)~~ Which unreasonably interferes with enjoyment of life and property.

~~((D-))~~(D) Odors. With respect to odor, the Agency may take enforcement action, pursuant to ~~((c))~~ Chapter 70.94 RCW, under this section if the Control Officer or ~~((a duty))~~

authorized representative has documented all of the following:

(1)(-) The detection by the Control Officer or ~~((a duty))~~ authorized representative of an odor at a ~~((4))~~ Level 2 or greater, according to the following odor scale:

~~(a)~~ Level 0 - no odor detected,

~~(b)~~ Level 1 - odor barely detected,

~~(c)~~ Level 2 - odor is distinct and definite, any unpleasant characteristics recognizable,

~~(d)~~ Level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance, and

~~(e)~~ Level 4 - odor is so strong that a person does not want to remain present.

(2)(-) An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property (the affidavit should describe or identify, to the extent possible, the frequency, intensity, duration, offensiveness, and location of the odor experienced by the complainant); and

(3)(-) The source of the odor.

~~((E-))~~(E) Odor Violation. With respect to odor, the Agency will determine whether or not a violation of Article VI, Section ~~((subsection))~~ 6.04(C) has occurred based on its review of the information documented under ~~((subsection))~~ Section 6.04(D), as well as any other relevant information obtained during the investigation.

~~((F-))~~(F) Enforcement Action. When determining whether to take formal enforcement action authorized in ~~((subsection))~~ Section 6.04(D) and (E) above, the Agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the Agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being employed. If the Agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the Agency may decline to pursue formal enforcement action.

~~((G-))~~(G) Documentation. The Agency will document all the criteria used in making its determination in ~~((subsection))~~ Section 6.04(F) above as to whether or not the person causing the odors is employing controls and operating practices to prevent or minimize odors to the greatest degree practicable. Said documentation, except information that meets the criteria of confidential in accordance with RCW 70.94.205, will be made available to any person making a public records request to the Agency for said documentation, including, but not limited to complaining parties.

~~((H-))~~(H) Cause of Action or Legal Remedy. Nothing in ~~((this))~~ Section 6.04 shall be construed to impair any cause of action or legal remedy of any person, or the public, for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION

SECTION 6.05 PARTICULATE MATTER AND PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

~~((A-))~~(A) Deposition. It shall be unlawful for any person to cause or allow the discharge of particulates in sufficient numbers to unreasonably cause annoyance to any other person when deposited upon the real property of others.

~~((B-))~~(B) Materials Handling, Transportation, Storage. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

~~((C-))~~(C) Construction and Demolition of Buildings and Roads. It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions to prevent particulate matter from becoming airborne must also be used on roads used as detour routes around roads, or section of road that are being constructed, altered, repaired, demolished, or closed for any purpose.

~~((D-))~~(D) Deposition on Paved Roadways. It shall be unlawful for any person, including the owner or person in control of real property to cause or allow particulate matter to be deposited upon a paved roadway open to the public without taking every reasonable precaution to minimize deposition. Reasonable precautions shall include, but are not limited to, the removal of particulate matter from equipment prior to movement on paved streets and the prompt removal of any particulate matter deposited on paved streets.

~~((E-))~~(E) Fugitive Dust. It shall be unlawful for any person to cause or allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize the emissions. Reasonable precautions may include, but are not limited to, one or more of the following:

(1)(-) The use of control equipment, enclosures, and wet (or chemical) suppression techniques, and curtailment during high winds;

(2)(-) Surfacing roadways and parking areas with asphalt, concrete, or gravel;

(3)(-) Treating temporary, low traffic areas (e.g., construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages and tires before they exit to prevent the track-out of mud or dirt onto paved public roadways; or

(4)(-) Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.06 EMISSION OF AIR CONTAMINANTS OR WATER VAPOR, DETRIMENT TO PERSONS OR PROPERTY ~~((6))~~ SEE WAC 173-400-~~((040(5)))~~040(6)

~~((The Authority implements and enforces WAC 173-400-040(5-)))~~ Repealed 7/9/20, Res. 20-08

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.07 EMISSION OF AIR CONTAMINANT CONCEALMENT AND MASKING RESTRICTED ((SEE WAC 173-400-040(7)))

((The Authority implements and enforces WAC 173-400-040(7).)) Conceal or Mask. No person shall cause or allow the installation of use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of SRCAA Regulation I.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.08 REPORT OF BREAKDOWN

~~((A))~~(A) Reporting. The owner or operator of a source which emits pollutant(s) exceeding any limit established by Ecology or the ~~((Authority))~~ Agency in any order(s), rule(s) or regulation(s) that apply to the facility as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control apparatus may be exempt from penalties if:

(1)~~((:))~~ The upset or breakdown is reported to the ~~((Authority))~~ Agency on the next regular working day.

(2)~~((:))~~ The owner or operator shall, upon request of the Control Officer, submit a report giving:

(a)~~((:))~~ The causes.

(b)~~((:))~~ The steps to be taken to repair the breakdown, and

(c)~~((:))~~ A time schedule for the completion of the repairs.

(3)~~((:))~~ The owner or operator can prove to the Control Officer that the excess emissions due to breakdown were unavoidable by adequately demonstrating that:

(a)~~((:))~~ The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(b)~~((:))~~ The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(c)~~((:))~~ The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emissions unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

~~((B))~~(B) Agency Review. ~~((The Control Officer))~~ Upon receipt of a report ~~((Subsection A.2.))~~ [SRCAA Regulation I, Article VI, Section 6.08 (A)(2)] from the owner and/or operator describing a breakdown, the Control Officer may:

(1)~~((:))~~ Allow continued exempt operation, but only for a limited time period, after which the owner or operator will be required to comply with ~~((this Regulation))~~ Section 6.08, or the applicable permit condition, or be subject to the penalties in Article II, Section 2.11. An exemption granted under ~~((this))~~ Section 6.08, may be withdrawn if the exempt operation becomes a cause of complaints.

(2)~~((:))~~ Require that the facility curtail or cease operations of the equipment, which emits pollutants exceeding any of the limits established by ~~((this Regulation))~~ Section 6.08 or in any permit condition, until repairs are completed, if the Control Officer determines that the quantity of pollutants, or the nature of the pollutants, could endanger human health and safety, cause injury to plant and/or animal life, or cause damage to property.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.09 EXCEPTIONS TO THIS ARTICLE ((RESERVED)) (Repealed 3/4/04, Res. 04-01)

AMENDATORY SECTION

SECTION 6.11 AGRICULTURAL BURNING

(A) Adoption by Reference. In addition to ~~((this))~~ SRCAA Regulation I, Article VI, Section 6.11, ~~((of the Regulation, the Authority,))~~ the Agency ~~((implements and enforces))~~ adopts by reference Chapter 173-430 WAC. The more stringent requirement in Chapter 173-430 or Section 6.11 supersedes the lesser.

~~((A))~~(B) Purpose. The primary purpose of ~~((this))~~ Section 6.11 is to establish specific requirements for agricultural burning in Spokane County, consistent with Chapter 173-430 WAC.

~~((B))~~(C) Applicability. ~~((This))~~ Section 6.11 applies to agricultural burning in all areas of Spokane County unless specifically exempted. ~~((This))~~ Section 6.11 does not apply to Silvicultural Burning (see Chapter 332-24 WAC) or to Outdoor Burning (see Chapter 173-425 WAC).

~~((C))~~(D) Statement of Authority. The Spokane Regional Clean Air Agency is empowered, pursuant to Chapter 70.94 RCW, to administer the agricultural burning program in Spokane County. Included is the authority to:

(1)~~((:))~~ Issue and deny burning permits;

(2)~~((:))~~ Establish conditions on burning permits to ~~((insure))~~ ensure that the public interest in air, water, and land pollution, and safety to life and property is fully considered;

(3)~~((:))~~ Determine if a request to burn is consistent with best management practices, pursuant to WAC 173-430-050; or qualifies for a waiver, pursuant to WAC 173-430-045;

(4)~~((:))~~ Delegate local administration of permit and enforcement programs to certain political subdivisions;

(5)~~((:))~~ Declare burn days and no-burn days, based on meteorological, geographical, population, air quality, and other pertinent criteria; and

(6)~~((:))~~ Restrict the hours of burning, as necessary to protect air quality.

~~((D))~~(E) Definitions. Unless a different meaning is clearly required by context, words and phrases used in ~~((this))~~ Section 6.11 shall have the following meaning:

(1)~~((:))~~ Agricultural Burning means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force

established in RCW 70.94.~~((650))~~6528 or other authoritative source on agricultural practices.

(2)~~(-)~~ *Authority* means the Spokane Regional Clean Air Agency (SRCAA or Agency).

(3)~~(-)~~ *Episode* means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as provided in Chapter 173-435 WAC.

(4)~~(-)~~ *Extreme Conditions* means conditions, usually associated with a natural disaster, that prevent the delivery and placement of mechanical residue management equipment on the field, and applies only to the growing of field and turf grasses for seed, for which a waiver is requested.

(5)~~(-)~~ *Impaired Air Quality*, for purposes of agricultural burning, means a condition declared by the ~~((Authority))~~ Agency when meteorological conditions are conducive to an accumulation of air contaminants, concurrent with at least one of the following criteria:

(a)~~(-)~~ Particulates that are ten ~~(10)~~ microns or smaller in diameter (PM₁₀) are measured at any location inside Spokane County at or above an ambient level of sixty ~~(60)~~ micrograms per cubic meter of air, measured on a ~~twenty-four (24)~~~~(-)~~ hour average, by a method which has been determined, by Ecology or the ~~((Authority))~~ Agency, to have a reliable correlation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix J, or equivalent.

(b)~~(-)~~ Carbon monoxide is measured at any location inside Spokane County at or above an ambient level of eight ~~(8)~~ parts of contaminant per million parts of air by volume (ppm), measured on an eight ~~(8)~~~~(-)~~ hour average by a method which has been determined, by Ecology or the ~~((Authority))~~ Agency, to have a reliable correlation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix C, or equivalent.

(c)~~(-)~~ Particulates that are two and one-half ~~(2.5)~~ microns or smaller in diameter (PM_{2.5}) are measured at any location inside Spokane County at or above an ambient level of ~~fifteen (15)~~ micrograms per cubic meter of air, measured on a ~~twenty-four (24)~~~~(-)~~ hour average, by a method which has been determined, by Ecology or the ~~((Authority))~~ Agency, to have a reliable correlation to the federal reference method, 40 CFR ~~((Title 40))~~ Part 50 Appendix L, or equivalent.

(d)~~(-)~~ Air contaminant levels reach or exceed other limits, established by Ecology pursuant to RCW 70.94.331.

(6)~~(-)~~ *Nuisance* means an emission of smoke or other emissions from agricultural burning that unreasonably interferes with the use and enjoyment of property or public areas.

(7)~~(-)~~ *Permitting Authority* means the Spokane Regional Clean Air Agency ~~((Authority))~~ Agency, or one or more of the following entities, whenever the ~~((Authority))~~ Agency has delegated administration of the permitting program, pursuant to RCW 70.94.~~((654))~~ 6530, to one or more of the referenced entities, provided such delegation of authority has not been withdrawn: Spokane County, the Spokane County Conservation District, or any fire protection agency within Spokane County.

(8)~~(-)~~ *Pest* means weeds, disease, or insects, infesting agricultural lands, crops, or residue.

(9)~~(-)~~ *Prohibited Materials* means garbage, dead animals, asphalt, petroleum products, paints, rubber products,

plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, demolition debris, metal or any substance (other than natural vegetation) that releases toxic emissions, dense smoke or obnoxious odors, when burned.

(10)~~(-)~~ *Responsible Person* means any person who has applied for and received a permit for agricultural burning, or any person allowing, igniting or attending to agricultural burning, or any person who owns or controls property on which agricultural burning occurs.

~~((E-))~~~~(F)~~ *Requirements*. No person shall practice or permit the practice of Agricultural Burning, other than incidental agricultural burning pursuant to RCW 70.94.~~((745(7)))~~ 6524 (7), unless the applicant demonstrates to the satisfaction of the ~~((Authority))~~ Agency or permitting authority that burning, as requested:

(1)~~(-)~~ Is reasonably necessary to successfully carry out the enterprise in which the applicant is engaged; or

(2)~~(-)~~ Constitutes a best management practice and no practical alternative is reasonably available.

~~((F-))~~~~(G)~~ *Prohibitions*. No person shall practice or permit the practice of agricultural burning in any of the following circumstances:

(1)~~(-)~~ Where there is a practice, program, technique, or device, that Ecology has certified as a practical alternative to burning.

(2)~~(-)~~ When the materials to be burned include any prohibited materials.

(3)~~(-)~~ During an episode, as declared by Ecology, or during Impaired Air Quality, as declared by Ecology or the ~~((Authority))~~ Agency for a defined geographical area.

(4)~~(-)~~ Where burning causes a nuisance or when the ~~((Authority))~~ Agency or permitting authority determines that the creation of a nuisance would likely result from burning.

(5)~~(-)~~ Without a written permit, issued by the permitting authority, except for incidental agricultural burning, as provided in RCW 70.94.~~((745(7)))~~6524(7).

(6)~~(-)~~ When the materials to be burned include any material other than natural vegetation generated on the property, which is the burning site, or was transported to the burning site by wind or water.

(7)~~(-)~~ In the case of growing of field or turf grasses for seed, unless the request to burn qualifies for a waiver for slope or extreme conditions pursuant to WAC 173-430-045 (4).

(8)~~(-)~~ When a no-burn day is declared by the ~~((Authority))~~ Agency or the permitting authority.

~~((G-))~~~~(H)~~ *General Conditions*. Considering population density and local conditions affecting air quality, the ~~((Authority))~~ Agency or permitting authority shall establish conditions for all permits to minimize air pollution as much as practical. Such conditions may be general (applying to all permits) or specific (applying to individual permits). Conditions may address permissible hours of burning, maximum daily burn acreage or volume of material to be burned, requirements for good combustion practice, burning under specified weather conditions, pre and post-burn reporting, and other criteria, determined by the permitting authority, as necessary to minimize air pollution. Any person who practices or permits the practice of agricultural burning shall, in

addition to any specific permit conditions imposed, comply with the general agricultural burning permit conditions and criteria in WAC 173-430-070 and all of the following conditions:

(1)(-) Whenever an episode or Impaired Air Quality is declared, or other meteorological condition occurs that the permitting authority determines is likely to contribute to a nuisance, all fires shall be extinguished by withholding new fuel or ceasing further ignition, as appropriate to allow the fire to burn down in the most expeditious manner. In no case shall a fire be allowed to burn longer than three (3) hours after declaration of an episode or Impaired Air Quality, or determination of the specific meteorological condition.

(2)(-) Until extinguished, the fire shall be attended by a person who is responsible for the same, capable of extinguishing the fire, and has the permit or a copy of the permit in his or her immediate possession.

(3)(-) Burning shall occur only during daylight hours, or a more restrictive period as determined by the ((Authority)) Agency or the permitting authority.

(4)(-) Permission from the landowner, or the landowner's designated representative, must be obtained before starting the fire.

(5)(-) The fire district ((of)) having jurisdiction shall be notified by the responsible person, prior to igniting a fire.

(6)(-) If it becomes apparent at any time to the ((Authority)) Agency or permitting authority that limitations need to be imposed to reduce smoke, prevent air pollution and/or protect property and the health, safety and comfort of persons from the effects of burning, the ((Authority)) Agency or permitting authority shall notify the permittee or responsible person and any limitation so imposed shall become a condition under which the permit is issued.

(7)(-) Follow the smoke management guidelines of the permitting authority.

((H))(I) Administrative ((R))Requirements.

(1)(-) All applicants for agricultural burning permits must submit their requests to burn, on forms or in a format provided by the permitting authority.

(2)(-) The permitting authority may require additional information from the applicant, as necessary to determine if agricultural burning is reasonably necessary to carry out the enterprise, to determine how best to minimize air pollution, and as necessary to compile information for the annual program summary ((of)) [Section 6.11 (K)(10) ((J-H))].

(3)(-) The permitting authority may deny an application or revoke a previously issued permit if it is determined by the permitting authority that the application contained inaccurate information, or failed to contain pertinent information, which information is deemed by the permitting authority to be significant enough to have a bearing on the permitting authority's decision to grant a permit.

(4)(-) All applicants for agricultural burning permits shall pay a fee at the time of application, according to the ((a schedule of fees)) Consolidated Fee Schedule, established by resolution of the permitting authority. When the permitting authority is the Spokane Regional Clean Air Agency, the fee shall be according to the schedule in Regulation I, Article X.

(5)(-) No permit for agricultural burning shall be granted on the basis of a previous permit history.

(6)(-) The permitting authority may waive or reduce the sixty (60) and thirty (30) ((-)) day advance requirements for submitting and completing a waiver request, made pursuant to WAC 173-430-045(5), if the permitting authority determines that an alternate advance period will suffice for evaluating the request.

((F))(J) Responsibilities of Farmers. In order to make the required showing, referenced in Section 6.11 (F) ((-)), a farmer, as defined in WAC 173-430-030(7), is responsible for providing the following to the permitting authority, if applicable:

(1)(-) Advance notice of the potential need to burn, including documentation of pest problems, which if possible, shall be given prior to crop maturity.

(2)(-) For pest management burning requests, a plan establishing how a recurring pest problem will be addressed through non-burning management practices by the following year, if possible, but by ((or by)) no later than three (3) years.

(3)(-) An evaluation of alternatives to burning, including those successfully and customarily used by other farmers in similar circumstances, with particular attention to alternatives customarily used in Spokane County, which evaluation shall include an explanation as to why the alternatives are unreasonable and burning is necessary.

(4)(-) A showing as to how burning will meet the applicable crop-specific or general Best Management Practices, established pursuant to RCW 70.94. ((650(4)))6528.

(5)(-) For residue management burn requests, a showing that the residue level meets the permitting authority's criteria for consideration of a residue management burn.

(6)(-) For residue management burn requests, a showing that non-burning alternatives would limit attaining the desired level of water infiltration/retention, soil erodibility, seed/soil contact, seeding establishment or other desirable agronomic qualities.

(7)(-) Field access to representatives of the permitting authority.

((J))(K) Responsibilities of Permitting Authorities. Permitting authorities are responsible for performing the following activities:

(1)(-) Evaluation of individual permit applications to determine whether the applicant has made the required showing, referenced in Section 6.11 (F) ((-)).

(2)(-) Consultation with a trained agronomist on individual permit applications, as necessary, to evaluate the need to burn and non-burning alternatives.

(3)(-) Field inspection, as necessary to verify the following:

(a)(-) Accuracy of information in permit and waiver applications,

(b)(-) Compliance with permit conditions and applicable laws and regulations, and

(c)(-) Acreage and materials burned.

(4)(-) Taking final action on permit applications within seven (7) days of the date the application is deemed complete.

(5)(-) Incorporation of appropriate permit conditions, both general and specific, as referenced in Section 6.11 (H) ((-G)) in order to achieve the following:

(a)(-) Minimizing air pollution and emissions of air pollutants, and

(b)(-)(f) Ensuring that the public interest in air, water, and land pollution, and safety to life and property has been fully considered, in accordance with RCW 70.94.~~(650-4)~~~~(e))~~6528.

(6)(-) Enforcement and compliance efforts, with the goal of assuring compliance with all applicable laws, regulations, and permit conditions, and ensuring that timely and appropriate enforcement actions are commenced, when violations are discovered.

(7)(-) Complaint logging and appropriate level of response.

(8)(-) Collection of fees.

(9)(-) Declaration of burn days and no-burn days, taking into consideration, at a minimum, the following criteria:

(a)(-) Local air quality and meteorological conditions;

(b)(-) Time of year when agricultural burning is expected to occur;

(c)(-) Acreage/volume of material expected to be burned per day and by geographical location;

(d)(-) Proximity of burn locations to roads, homes, population centers, and public areas;

(e)(-) Public interest and safety; and

(f)(-) Risk of escape of fire onto adjacent lands, during periods of high fire danger.

(10)(-) Development of smoke management guidelines, that include procedures to minimize the occurrence of nuisance, and to facilitate making burn/no burn decisions.

(11)(-) Dissemination of burn decisions, as necessary to inform responsible persons and the public.

(12)(-) Compilation of an annual program summary, which at a minimum, includes the following:

(a)(-) Permits and acres approved for burning;

(b)(-) Permit/waiver requests and acres denied;

(c)(-) Number and dates of complaints received; and

(d)(-) Number of documented violations.

~~(K)~~(L) Compliance. The responsible person is expected to comply with all applicable laws and regulations. Compliance with Section 6.11 does not ~~((insure))~~ ensure that agricultural burning complies with other applicable laws and regulations implemented by any other authority or entity.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 6.12 RESERVED (3/4/04, Res. 04-01)

AMENDATORY SECTION

SECTION 6.13 GENERAL SURFACE COATING

~~(A)~~(A) Purpose. SRCAA Regulation I, Article VI, ~~((This))~~ Section 6.13 establishes controls on surface coating operations in Spokane County in order to:

(1)(-) Reduce particulate emissions from coating overspray;

(2)(-) Reduce public exposure to Toxic Air Pollutants as listed in Chapter 173-460 WAC;

(3)(-) Reduce emissions of precursors to the formation of tropospheric ozone and other photochemical oxidants; and
(4)(-) Encourage pollution prevention.

~~(B)~~(B) Applicability. ~~((This))~~ Section 6.13 applies to all surface preparation, surface coating, cleanup, and disposal associated with general surface coating in Spokane County, unless specifically exempted.

~~(C)~~(C) Definitions. Unless a different meaning is clearly required by context, words and phrases used in ~~((this))~~ Section 6.13 shall have the following meaning:

(1)(-) *Airless Spray* means a spraying system that uses hydraulic atomization instead of air atomization. The coating is supplied to the gun under high fluid pressure between 1,000 and 3,000 psig and the coating is forced through a small orifice.

(2)(-) *Air-Assisted Airless Spray* means a spraying system that combines air and airless features. An airless type fluid tip atomizes the paint and shapes the fan pattern at fluid pressures between 300 and 1,000 psig. Lower pressure air from 10 to 30 psig combines at the spray cap to adjust the fan shape to eliminate heavy edges (tails).

(3)(-) *Automated* means the technique, method, or system of operating or controlling a process by mechanical, electrical, hydraulic, or electronic means independent of human intervention.

(4)(-) *Brush Coat Application* means manual application of coatings by use of a paint brush.

(5)(-) *Coating* means a material or formulation of materials that is applied to or impregnated into a surface in order to beautify, protect, enhance the function, or otherwise cover the surface.

(6)(-) *Container* means the individual receptacle that holds a coating or coating component for storage and distribution.

(7)(-) *Dip Coat Application* means application of coatings in which the surface to be coated is immersed in a solution (or dispersion) containing the coating material and withdrawn.

(8)(-) *Electrostatic Application* means application of coatings where an electrostatic potential is created between the part to be coated and the paint particles.

(9)(-) *Exempt Solvent* means a solvent, or solvent component, ~~((which))~~ that is not a volatile organic compound (VOC).

(10)(-) *Flow Coat Application* means application of coatings by flowing the coating over the surface to be coated and draining the excess coating to a collection system.

(11)(-) *High Volume, Low Pressure (HVLP) or Low Volume, Low Pressure (LVLP) coating system* means equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 psig ~~((pounds per square inch gauge))~~ air pressure measured at the nozzle and that exhibits a minimum transfer efficiency of 65%, as applied.

(12)(-) *Light Duty Vehicle* means a passenger car, truck, van, or other motor vehicle which has a gross vehicle weight of eight thousand-five hundred (8,500) pounds or less, or components thereof.

(13)(-) *Multi-Coat System* means a coating system where more than one product or coat is sequentially applied to the same surface and generally consists of a pigmented

base coat, one or more semi-transparent mid-coats, and a transparent clear coat. The VOC content for a multi-coat system shall be calculated as follows:

$$VOC_{TM} = \frac{VOC_{BC} + VOC_{X1} + VOC_{X2} + \dots + VOC_{Xn} + 2VOC_{CC}}{n+3}$$

where:

VOC_{TM} is the average sum of the VOC content, as applied to the surface, in a multi-coat system; and

VOC_{BC} is the VOC content, as applied to the surface, of the base coat; and

VOC_X is the VOC content, as applied to the surface, of each sequentially applied mid-coat; and

VOC_{CC} is the VOC content, as applied to the surface, of the clear coat (Two coats are applied); and

n is the total number of coats applied to the primer coat(s) surface.

(14)(-) *Pre-packaged Aerosol Can Application* means application of coatings from cans which are sold by the coating supplier as non-reusable, hand-held pressurized containers. The coating is expelled as a finely divided spray when a valve on the container is depressed.

(15)(-) *Primer* means any coating that is applied to a surface to enhance corrosion resistance, protection from the environment, functional fluid resistance, and adhesion of subsequently applied coatings.

(16)(-) *Reducer* means any solvent added to a coating which has the effect of reducing the viscosity of the coating or shortening the drying time.

(17)(-) *Refinishing* means reapplying coating to a surface to repair, restore, or alter the finish.

(18)(-) *Roll Coat Application* means manual application of coatings by the use of a paint roller.

(19)(-) *Solvent Consumption* means the volume of solvent purchased or otherwise procured, less the volume recycled or disposed. In the absence of records which document the transfer of solvent to an authorized recycler or waste hauler, solvent consumption means the volume of solvent purchased or otherwise procured.

(20)(-) *Standard ((e))Engineering ((p))Practices* means that accepted, peer reviewed sets of criteria are used in designing equipment (i.e. Uniform Building, Electrical, and Fire Codes, recommendations of the American Conference of Governmental Industrial Hygienists, guidelines of the Department of Labor and Industry, etc.).

(21)(-) *Surface Coating* means the application of coating to a surface.

(22)(-) *VOC Content* means pounds of VOC per gallon of coating (Lb/Gal) or grams of VOC per liter of coating (G/L), minus water and exempt solvents. The VOC content is calculated as follows:

$$VOC_{CT} = \frac{W_V}{V_M - V_W - V_{ES}}$$

where:

VOC_{CT} is the VOC content of the coating, as applied to the surface; and

W_V is the weight of VOC per unit volume of coating, as applied to the surface; and

V_M is the unit volume of coating, as applied to the surface; and

V_W is the volume of water per unit volume of coating, as applied to the surface; and

V_{ES} is the volume of exempt solvents per unit volume of coating, as applied to the surface.

(23)(-) *Wash Solvent* means any solution, solvent, suspension, compound, or other material, excluding water, ~~((that))~~ which is used to clean spray equipment, spray equipment lines, containers, and any other equipment associated with the application of coatings.

(24)(-) *Wipe-Down Agent* means any solution, solvent, suspension, compound, or other material that is applied to a surface exclusively for cleaning the surface or preparing the surface for coating.

~~((D))~~(D) Prohibitions on ((e))Emissions.

(1)(-) No person shall cause or allow the application of any coating which contains greater than 0.1% by weight of one or more compounds of lead or hexavalent chromium.

(2)(-) Light duty vehicle refinishing - prohibitions on VOC content. Except as provided in Section 6.13(F)(-F)), no person shall cause or allow the application of any coating or other agent to any light duty vehicle or light duty vehicle component, with a VOC content in excess of the limits listed in 40 CFR 59, Subpart B, Table 1 - EPA National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings.

~~((E))~~(E) Requirements. All persons subject to the requirements of Section 6.13 shall comply with all of the following, unless exempted under Section 6.13(F)(-F)).

(1)(-) Enclosure and Controls,(-)Spray application shall be conducted in a booth or area which is vented to an operating particulate control system. The particulate control system, including filtration, ducting, and fan shall be installed and sized according to standard engineering practices. Acceptable filtration methods ~~((may))~~ include:

(a)(-) Filter banks supplied with filter media designed for spray booth applications.

(b)(-) Water baths where the inlet air flow to the water bath is submerged.

(c)(-) Water wall systems that form a continuous water curtain through which the particulate flow stream must pass.

(d)(-) Other filtration methods that have received the prior written approval of the Control Officer.

1. The control system shall be equipped with a fan which is capable of capturing all visible overspray. Emissions from the booth/area shall be vented to the atmosphere through a vertical stack. The top of the exhaust stack/vent shall be at least six (6) feet above the penetration point of the roof, or if the exhaust stack/vent exits horizontally out the side of the building, then the exhaust stack/vent shall vent vertically at least six (6) feet above the eave of the roof. A higher stack/vent may be required if the ~~((Authority))~~ Agency determines that it is necessary for compliance with Article VI, Section 6.04 ~~((or 6.06 of this Regulation))~~. There shall be no flow

obstructions (elbows, tees, or stack caps) inside of, or at the top of, the stack that will impede upward vertical flow of the exhausted air.

2. It shall be the owner/operator's responsibility to comply with other applicable federal, state, and local regulations for the stack/vent.

(2)(-) Visible Emissions. Visible emissions from the stack shall not exceed 10% opacity averaged over any six (6) minute period, as determined by EPA Method 9.

(3)(-) Application Methods. Except as provided in Section 6.13(F), no person shall cause or allow the application of any coating or other agent containing VOC unless the coating or agent is applied by one of the following methods:

- (a)(-) High Volume, Low Pressure coating system;
- (b)(-) Low Volume, Low Pressure coating system;
- (c)(-) Wet or Dry electrostatic application;
- (d)(-) Flow coat application;
- (e)(-) Dip coat application;
- (f)(-) Brush coat application;
- (g)(-) Pre-packaged aerosol can application;
- (h)(-) Roll coat application;

(i)(-) A spraying technique that when tested, using the methodology presented in ASTM Standard D 5327-92, or when test documentation, provided to and approved by the ~~(Authority)~~ Agency, exhibits that the spraying technique has a transfer efficiency of at least 65%;

(j)(-) Alternate application methods that have received the written approval of the Control Officer. Such alternate methods may be used, provided that the owner or operator makes a written request to use an alternate method and the Control Officer grants approval. These methods include but are not limited to the following application methods and circumstances:

1.(+) Airless and Air-Assisted Airless Spray systems may be used under any of the following circumstances:

a.(+) when the volatile organic compound (VOC) emissions are determined by the Control Officer to be no more than VOC emissions that would be generated by a spray application with a transfer efficiency of 65%;

b.(+) when the spraying operation is automated;

c.(+) when spray painting structural steel members where the coating, as formulated by the coating manufacturer, does not require addition of reducers to spray, and is delivered under high pressure (greater than (>) 1,000 psig for airless, or greater than (>) 300 psig for air-assisted airless) to the application system; or

d.(+) where the Control Officer has determined that the coating cannot be feasibly applied with a method that has a minimum transfer efficiency of 65%.

(4)(-) Equipment Cleanup. Equipment cleanup and any other use of wash solvent shall be totally enclosed during washing, rinsing, and draining; or wash solvent, after making contact with the equipment being cleaned, shall be immediately drained to a closed sump which is an integral part of the cleaning system.

(5)(-) General Clean-up.

(a)(-) All unused or partially used containers of coatings, wipe-down agents, wash solvents, reducers, and waste

materials containing VOC shall be closed, except when in use, when being filled or emptied.

(b)(-) Spills must be cleaned up upon discovery and the clean up materials and collected waste shall be stored in closed metal containers.

(c)(-) All disposable materials which contain VOCs associated with wipe-down or application of coatings and other agents shall be stored in closed metal containers for disposal.

(6)(-) Recordkeeping. All persons subject to Section 6.13 shall maintain the following records for the previous twenty-four (24)(-) month period at the place of business where surface coating is performed:

(a)(-) The most current material safety data sheets (MSDS) or other data sheets which clearly indicate the VOC content of the product and of any multi-coat system.

(b)(-) Records of purchases and usage, including unused materials returned to the supplier.

1.(+) Light duty vehicle refinishing. Annual purchases ~~(and)~~ or usage of total primers, total top coats, total clear coats, and total gun cleaner. Usage shall be reported "as applied", i.e. after reducing and catalyzing, if applicable.

2.(+) Other surface coating facilities. Annual purchases ~~(and)~~ or usage of individual coatings, coating additives, wipe-down agents, wash solvents, reducers, ~~(there)~~ and other materials containing volatile organic compounds or volatile toxic air pollutants.

(c)(-) Waste materials disposal records, including volumes of waste solvents and coatings transferred in sealed containers to authorized waste haulers.

~~(F)~~(F) Exceptions. Exceptions to Section 6.13 shall be made as follows:

(1)(-) Noncommercial exemption. Nothing in Section 6.13 shall apply to surface coating operations conducted solely for personal, noncommercial purposes if, on a facility-wide basis, less than five (5) gallons of surface coatings are applied per year.

(2)(-) Coating process exemptions. Nothing in Section 6.13 shall apply to the following coating processes:

(a)(-) The application of architectural coatings to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs;

(b)(-) Fiberglass resin application operations;

(c)(-) Gel coating operations;

(d)(-) The application of asphaltic or plastic liners. This includes undercoating, sound deadening coating, and spray on bed lining for trucks;

(e)(-) Spray plasma plating operations; or

(f)(-) Application of coatings to farming equipment.

(3)(-) Low usage exemption. Nothing in Sections 6.13 ~~(E)3 and 4)~~(E)(1) shall apply to surface coating operations which, on a facility-wide basis, apply less than ten (10) gallons per year of surface coatings.

(4)(-) Exemption for large objects. Nothing in ~~(Subsection)~~ Section 6.13 ~~(E)1)~~(E)(1) shall apply to the infrequent outdoor surface coating of large objects where the Control Officer determines that it is impractical to totally enclose the object inside a booth or vented area. The request for this exemption must be made in writing to the Control Officer and the approval must be in writing. Infrequent means outdoor

spray surface coating that amounts to 10% or less of the total annual gallons of paint applied at the facility in the previous twelve (12) months. Annual records must be kept of the number of gallons of paint that are sprayed outdoors. In such case, a temporary enclosure (tarps) shall be maintained around the object during the surface coating operation, sufficient at all times to prevent overspray from remaining airborne beyond the property line of the facility.

(5)(-) Wash solvent exemption. Nothing in ((Subsection)) Section 6.13 (E)(4)((-E.4.)) shall apply to:

(a)(-) ((#))The use of wash solvents with composite vapor pressure of organic compounds less than 45 mm Hg at 20°C as determined by ASTM Method D-2306-81; or

(b)(-) ((w))Wash solvent operations if total wash solvent consumption does not exceed ten (10) gallons per year.

(6)(-) Stack exemption. The stack/vent requirements in ((Subsection)) Section 6.13 (E)(1)((-E.1.)) shall not apply to surface coating operations where the owner or operator can demonstrate to the satisfaction of the Control Officer that emissions of toxic air pollutants will not exceed the Acceptable Source Impact Levels as defined in WAC 173-460-150 & 160 and emissions will not create a nuisance.

(7)(-) Non-spray and aerosol can application exemption. Nothing in ((Subsection)) Section 6.13 (E)(1)((-E.1.)) shall apply to the application of any coating or other agent from pre-packaged aerosol cans, flow coat, dip coat, brush coat, or roll coat applications.

(8)(-) Low VOC content exemption. Nothing in ((Subsection)) Section 6.13 (E)(3)((-E.3.)) shall apply to the application of coatings where the VOC content does not exceed 2.1 Lb/Gal or 250 G/L.

(9)(-) Lead or Hexavalent Chrome exemption. The prohibition in ((Subsection)) Section 6.13 (D)(1)((-D.1.)) shall not apply to a surface coating operation where the control officer determines that no practical alternative coating is available.

(10)(-) Enclosure and/or particulate control exemption. The enclosure and/or particulate control requirements of ((Subsection)) Section 6.13 (E)(1)((-E.1.)) shall not apply to a surface coating operation where the ((e))Control ((o))fficer determines that such requirements would be ineffective, or unreasonable in capturing or controlling particulate or volatile organic compounds emissions from the facility.

(11)(-) Inside exhaust exemption. If the Department of Labor & Industries or another agency of jurisdiction determines that the emissions from a surface coating operation to an inside work area are below the threshold where an exhaust system is required and the Fire Department or District of jurisdiction has no objection, then the Control Officer may grant an exemption to ((Subsection)) Section 6.13 (E)(1)((-E.1.)).

((G-))((G)) Compliance with other laws and regulations. Compliance with Section 6.13 or qualifying for an exemption in Section 6.13(F)((-F.)) does not necessarily mean that the surface coating operation complies with fire protection, waste disposal, or other federal, state, or local applicable laws or regulations.

((H-))((H)) Compliance schedule. All persons subject to the requirements of Section 6.13 and not already in compliance shall be in full compliance with Section 6.13 by October 7,

1998, unless an extension is applied for by the owner or operator and is granted in writing by the Authority.)

AMENDATORY SECTION

SECTION 6.14 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON PAVED SURFACES

((A-))((A)) Applicability. The provisions of SRCAA Regulation I, Article VI, Section 6.14 shall apply to any government agency of a state, county, city or municipal corporation that applies or contracts for application of sanding materials to or mechanically sweeps or vacuums or contracts for sweeping or vacuuming of paved surfaces within the PM₁₀ Nonattainment area, or within the PM₁₀ maintenance area after the nonattainment area is redesignated to attainment. ((This)) Section 6.14 shall also apply to all suppliers of sanding materials to be used by these affected entities.

((B-))((B)) Definitions.

(1)(-) *Affected Entity* is any governmental agency of a state, county, city or municipal corporation as described in ((Subsection)) Section 6.14(A).

(2)(-) *Approved Laboratory* means a certified or approved facility capable of performing the specified tests in a competent, professional, and unbiased manner in accordance with ASTM testing procedures.

(3)(-) *The ((Authority)) Agency* is the Spokane Regional Clean Air Agency.

(4)(-) *Base Sanding Amount* is the average amount of sanding materials applied per lane mile by each affected entity within the PM₁₀ Nonattainment Area during the 1992 - 1993 season or another base season, as requested by an affected entity and approved by the ((Authority)) *Agency*.

(5)(-) *Durability Index* means the percent loss of weight as determined using ASTM "Standard Test Method for Resistance to Degradation of Small-Size Coarse Aggregate by Abrasion and Impact in the Los Angeles Machine", designated C131-89, or other approved ASTM procedure.

(6)(-) *Full Deployment* means that sanding materials have been applied to all priority roadways targeted for treatment during a snow/ice event.

(7)(-) *Percent Fines* means the percent material passing a #100 sieve as determined by the American Society for Testing Materials (ASTM) "Standard Method for Sieve Analysis of Fine and Coarse Aggregates", Designation C136-84a (1988) (American Highway and Transportation Officials designation T27-88), or other approved ASTM procedure.

(8)(-) *PM₁₀ Maintenance Area* means the same as the PM₁₀ Nonattainment area unless otherwise defined in an approved PM₁₀ Maintenance Plan.

(9)(-) *PM₁₀ Nonattainment Area* means the Spokane County PM₁₀ Nonattainment Area, defined in 40 CFR ((Title 40,)) Part 81, as designated on November 15, 1990.

(10)(-) *Priority Roadway* means any street, arterial, or highway, within the PM₁₀ Nonattainment Area, with more than fifteen-thousand (15,000) average daily traffic count, and any connecting entrance or exit ramp.

(11)(-) *Recycled Sanding Materials* means previously used sanding materials which have been collected from roadways or paved areas and are then re-used as is, after washing, or after blending with new sanding materials.

(12)(-) *Sanding Materials* means natural geologic materials, excluding salt and other de-icing chemicals, used to provide increased traction on roadways or paved areas.

(13)(-) *Season* means the period beginning, November 1, in one (1) calendar year and concluding on April 30, the next calendar year.

(C) Emission (E) Reduction and (e) Control (P) Plans. Each affected entity shall submit to the (Authority) Agency an initial plan, including an implementation schedule describing the programs and methods to be used to reduce PM₁₀ emissions from paved surfaces. If the affected entity incorporated after the effective date of this regulation, that entity shall submit an initial plan within one hundred eighty (180) days of incorporation. In reviewing each plan, the (Authority) Agency shall allow consideration of mobility and transportation safety factors. In approving any initial plan, or plan revision the (Authority) Agency must make a finding, in consultation with the Washington State Department of Ecology, that the cumulative effect of the plans submitted by all affected entities will maintain at least a 70% reduction, from the 1992 - 1993 base season, in the twenty-four (24) hour PM₁₀ emissions from paved surfaces.

(1)(-) Each plan is subject to approval by the (Authority) Agency and shall address, at a minimum, all of the following:

- (a)(-) Base sanding amount;
- (b)(-) Percent sanding reduction goal;
- (c)(-) Sanding materials specifications to be employed;
- (d)(-) Criteria for application of sanding materials.

Where and when sanding materials are applied;

- (e)(-) Identification of priority roadways;
- (f)(-) Locations, application rates, and circumstances for the use of chemical deicers and other sanding alternatives;
- (g)(-) Street sweeping frequency and technology to be employed;

(h)(-) Factors for determining when and where to initiate street sweeping following a sanding event, with the goal of expeditious removal of sanding materials from priority roadways when safety and mobility requirements have been satisfied;

(i)(-) An implementation schedule giving the estimated dates of start and completion, if applicable, of each part of the plan; and

(j)(-) A schedule for removal of sanding materials from all surfaces to which they are applied.

(2)(-) The plans submitted shall be implemented by each affected entity upon approval of each plan.

(3)(-) Within forty-five (45) days of submittal of the reports required in (Subsection F. of this) Section 6.14(F), the (Authority) Agency shall determine if the plan commitments have been met and shall notify each affected entity that has failed to fully implement its plan.

(4)(-) If the (Authority) Agency, after consultation with the affected entities, the Washington Department of Ecology, and the United States Environmental Protection Agency, determines that the emission reduction and control plans do not provide for sufficient reduction in PM₁₀ emissions to achieve the emission reduction credit for paved road surfaces as contained in the State Implementation Plan, the (Authority) Agency may require any or all affected entities

to modify their plans in order to achieve additional reductions.

(5)(-) Each affected entity shall review their approved plan within ninety (90) days of the effective date of the amendment to ((this regulation)) Section 6.14 and every five (5) years thereafter and within ninety (90) days of the ((Authority's)) Agency's determination made pursuant to ((Subsection C. 4.)) Section 6.14 (C)(4) and revise the plan as appropriate to ensure that identified priority roadways reflect changes in traffic counts and driving patterns and that all aspects of the plan reflect current sanding and sweeping technologies, programs, and schedules of the affected entity and requirements of the ((Authority)) Agency. All amended plans are subject to approval by the ((Authority)) Agency.

(D) Sanding Materials Specifications.

(1)(-) Material Standards. No affected entity shall use sanding materials, whether new or recycled, which equal or exceed 3% fines and 25% durability index.

(2)(-) Contractual Requirements. After the effective date of this regulation, no affected entity shall execute a contract for the purchase of sanding materials unless the contract includes standards at least as stringent as those set forth in ((Subsection E.1. of this)) Section 6.14 (E)(1).

(E) Testing.

(1)(-) Supplier Testing Requirements.

(a)(-) Suppliers of sanding materials shall have tests performed by an approved laboratory to determine the percent fines and durability index on representative samples of their sanding materials which are supplied to affected entities.

(b)(-) The sampling and test frequency and methodology used shall ensure that the samples are representative and enable the supplier to certify to the affected entity that the actual sanding materials supplied for use will meet the requirements of ((Subsection D. of this)) Section 6.14(D).

(2)(-) User Requirements. Affected entities or their contractors, shall have at least one test performed by an approved laboratory to determine the percent fines and durability index on all recycled materials at least once for the first two hundred-fifty (250) tons of recycled materials used each season and at least once for every five hundred (500) tons of recycled materials used thereafter during the same season.

(3)(-)(Authority) Agency Audits. The ((Authority)) Agency may enter the site of any affected entity or supplier of sanding materials subject to this Section for the purpose of obtaining a sample of sanding materials to determine if the materials meet the requirements of ((Subsection D. of this)) Section 6.14(D).

(F) Reporting.

(1)(-) Supplier Reporting Requirements. Prior to, or upon, delivery of sanding materials, suppliers shall provide affected entities that use their sanding materials a report demonstrating that the supplier has met all testing requirements of ((this)) Section 6.14 applicable to the time period in which deliveries are made. The supplier shall certify in writing to the affected entity that the sanding materials meet the requirements of ((Subsection D. of this)) Section 6.14(D).

(2)(-) Affected Entity Reporting Requirements.

(a)(-) Affected entities that use recycled sanding materials shall submit to the ((Authority)) Agency copies of the

results of testing conducted according to ~~((Subsection E.2. of this))~~ Section 6.14 (E)(2) no later than ~~thirty (30)~~ days after the tests are conducted.

(b)(-) No later than June 30, of each year, affected entities shall submit a report to the ~~((Authority))~~ Agency containing information for the preceding season on:

1.(+) ~~((#))~~ The total amount of sanding materials (both new and recycled) and salt and other deicing chemicals used;

2.(+) ~~((#))~~ The number of lane miles sanded, salted and deiced; and

3.(+) ~~((#))~~ The number of full deployment episodes; and

(c)(-) Within seven (7) calendar days of awarding a contract for the purchase of sanding materials to a supplier, an affected entity shall notify the ~~((Authority))~~ Agency of the supplier's name and location of the aggregate sources from which the materials will be supplied.

(d)(-) Affected entities shall maintain on file reports received under the provisions of ~~((Subsection F.1. of this))~~ Section 6.14 (F)(1) for a period of three (3) years.

(3)(-) Sweeper Reporting Requirements.

(a)(-) Affected entities shall maintain monthly records to document the information described below. No later than June 30, of each year, each affected entity shall submit a report to the ~~((Authority))~~ Agency that shall contain the information described below.

1.(+) Date of each sweeping operation;

2.(+) Priority lane miles swept;

3.(+) All other lane miles swept;

4.(+) Type of equipment used; and

5.(+) Number of passes on priority roadways.

(4)(-) ~~((Authority))~~ Agency Audits. All records generated under the provisions of ~~((this))~~ Section 6.14 shall be made available for inspection upon request by the ~~((Authority))~~ Agency.

~~((G))~~(G) Alternate Test Methods and Standards. Alternate percent fines and durability index test procedures may be approved by the ~~((Authority))~~ Agency should they be determined to provide a measure that is equivalent to the test procedures of ~~((this))~~ Section 6.14.

~~((H))~~(H) Alternate Sanding Materials. Experimentation with new sanding materials may be approved by the ~~((Authority))~~ Agency provided the ~~((Authority))~~ Agency finds that the impact of such experiments will not cause a failure to maintain the 70% reduction in PM₁₀ emissions from the 1992-93 base season, as described in ~~((Subsection E))~~ Section 6.14(C).

AMENDATORY SECTION

SECTION 6.15 STANDARDS FOR CONTROL OF PARTICULATE MATTER ON UNPAVED ROADS

~~((A))~~(A) Applicability. The provisions of SRCAA Regulation I, Article VI, Section 6.15 shall apply to:

(1)(-) ~~((The City of Spokane, the Town of Millwood, Spokane County, and other))~~ Any governmental ((entities)) agency of a state, county, city or municipal corporation, responsible for the maintenance of unpaved public roads within the PM₁₀ Nonattainment Area; and

(2)(-) Those specific unpaved public roads which have been identified by Ecology or the ~~((Authority))~~ Agency for

inclusion in an implementation plan or a maintenance plan for control of PM₁₀ emissions.

~~((B))~~(B) Definitions.

(1)(-) ~~((Authority))~~ Agency means the Spokane Regional Clean Air Agency.

(2)(-) *Ecology* means the Washington Department of Ecology.

(3)(-) *EPA* means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

(4)(-) *Implementation Plan* has the same meaning as in Section 110 of the Federal Clean Air Act (42 USC 7410).

(5)(-) *Maintenance Plan* has the same meaning as in Section 175A of the Federal Clean Air Act (42 USC 7505).

(6)(-) *Palliative* means salts and other hygroscopic materials, petroleum resins, asphalt emulsions, adhesives, chemical soil stabilizers or other surface treatment materials acting as a method of dust control, and not prohibited for use by any local, state, or federal law, rule, or regulation.

(7)(-) *Paved* means application of concrete, asphaltic concrete, asphalt, or combination thereof as a means of forming a permanent surface for a road.

(8)(-) *PM₁₀ Nonattainment Area* means the Spokane County PM₁₀ Nonattainment Area, defined in 40 CFR ((Title 40,)) Part 81, as designated on November 15, 1990. This definition will remain in effect, even after EPA makes the determination that the PM₁₀ standard that existed before September 16, 1997, no longer applies to Spokane County. Retaining the definition ensures compliance with the EPA's Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS, dated December 29, 1997, by continuing implementation of control measures in the Implementation Plan and preserving air quality gains.

(9)(-) *Reasonable Further Progress* has the same meaning as in Section 171(1) of the Federal Clean Air Act (42 USC 7501).

~~((C))~~(C) Emission Reduction and Control Plan. Each applicable governmental entity shall submit an Emission Reduction and Control Plan for approval by the ~~((Authority))~~ Agency, which includes the following for each applicable unpaved road:

(1)(-) A schedule for paving, periodic application of palliative, or implementation of other control measures.

(2)(-) Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail for the ~~((Authority))~~ Agency to determine emission reductions.

~~((D))~~(D) Emission Reduction Contingency Plan. Each applicable governmental entity shall submit an Emission Reduction Contingency Plan for approval by the ~~((Authority))~~ Agency, which includes the following for each applicable unpaved road:

(1)(-) A schedule for paving, periodic application of palliative, or implementation of other control measures.

(2)(-) Specification of the type of palliative to be applied and its application rate, paving specifications, or specifications of other control measures with sufficient detail

for the ~~((Authority))~~ Agency to determine emission reductions.

~~(E-)~~(E) Effective ~~((d))~~Dates. The applicable governmental entities shall comply with the following effective dates whenever an unpaved road is identified by Ecology or the ~~((Authority))~~ Agency for control of PM₁₀ emissions as part of an implementation plan:

(1)(-) For any unpaved road so identified prior to the effective date of Section 6.15 ~~((of this regulation))~~, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within sixty (60) days after the effective date.

(2)(-) For any unpaved road so identified after the effective date of Section 6.15 ~~((of this regulation))~~, the entity shall submit the Emission Reduction and Control Plan or Emission Reduction Contingency Plan, whichever applies, within sixty (60) days after such identification.

~~(F-)~~(F) Approval and Implementation.

(1)(-) The ~~((Authority))~~ Agency shall review the Emission Reduction and Control Plan submitted pursuant to Section 6.15 ~~(C)((-C- of this Regulation))~~ and within sixty (60) days after approval by the ~~((Authority))~~ Agency, the applicable governmental entity shall implement the plan.

(2)(-) The ~~((Authority))~~ Agency shall review the Emission Reduction Contingency Plan submitted pursuant to Section 6.15 ~~(D)((-D- of this Regulation))~~ and upon approval by the ~~((Authority))~~ Agency and within sixty (60) days after the EPA makes the findings in Section 6.15 ~~(G)((-G- of this Regulation))~~, the applicable governmental entity shall implement the plan.

(3)(-) The ~~((Authority))~~ Agency will not approve an Emission Reduction and Control Plan or an Emission Reduction Contingency Plan unless the ~~((Authority))~~ Agency finds that the plans will achieve the total emission reductions required by the implementation plan. If the ~~((Authority))~~ Agency finds that a plan will not achieve the required reductions, then the applicable governmental entity shall revise the plan to achieve the required reductions and resubmit the plan for review by the ~~((Authority))~~ Agency.

~~(G-)~~(G) Findings by EPA. In the event the EPA determines that the Spokane PM₁₀ Nonattainment Area has failed to make Reasonable Further Progress or has failed to timely attain a National Ambient Air Quality Standard for PM₁₀ or has violated a National Ambient Air Quality Standard for PM₁₀ after redesignation as an attainment area, and emissions from unpaved roads are determined by the EPA, in consultation with Ecology and the ~~((Authority))~~ Agency, to be a contributing factor to such failure or violation, the applicable governmental entities shall comply with the requirements of Section 6.15 ~~(F)(2)((-F-2 of this Regulation))~~.

~~(H-)~~(H) Reporting. Within six (6) months after the effective date of Section 6.15 ~~((of this Regulation))~~, and annually thereafter as determined by the ~~((Authority))~~ Agency, each applicable governmental entity shall submit a written report to the ~~((Authority))~~ Agency which demonstrates compliance with the Emission Reduction and Control Plans and the Emission Reduction Contingency Plans.

~~(I-)~~(I) Failure to ~~((e))~~Comply. Failure to comply with Section 6.15 ~~((of this Regulation))~~ will subject affected enti-

ties to penalties as provided in SRCAA Regulation I, Article II ~~((of this Regulation))~~.

AMENDATORY SECTION

SECTION 6.17 STANDARDS FOR MUNICIPAL SOLID WASTE COMBUSTORS

~~((A-))~~(A) Purpose. SRCAA Regulation I, Article VI, Section 6.17 ~~((This section))~~ implements the emission guidelines promulgated by the United States Environmental Protection Agency (EPA) in 40 CFR Part 60, Subpart Cb, establishing standards for the control of certain pollutants emitted from municipal solid waste combustors.

~~(B-)~~(B) Definitions. The definitions in 40 CFR ~~((§))~~ 60.31b, as in effect on December 1, 2006, are adopted by reference except:

(1)(-) The references to ~~((§))~~ 60.52b(c) in the definitions of maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature are hereby changed to ~~((§))~~ 60.33b ~~(c)(1)~~.

(2)(-) In sections 60.53b, 60.58b, and 60.59b, Administrator means both the administrator of EPA and the ~~((Spokane County Air Pollution Control Authority))~~ the Agency.

~~(C-)~~(C) Applicability. Section 6.17 applies to all facilities within Spokane County that are designated facilities as established in 40 CFR ~~((§))~~ 60.32b, as in effect on December 1, 2006.

~~(D-)~~(D) Emission Standards. The following emission standards are adopted by reference.

(1)(-) Particulate matter emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (a)(1)(i), as in effect on December 1, 2006.

(2)(-) Opacity shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (a)(1)(iii), as in effect on December 1, 2006.

(3)(-) Cadmium emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (a)(2)(i), as in effect on December 1, 2006.

(4)(-) Lead emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (a)(4), as in effect on December 1, 2006.

(5)(-) Mercury emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (a)(3), as in effect on December 1, 2006.

(6)(-) Sulfur dioxide emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (b)(3)(i), as in effect on December 1, 2006.

(7)(-) Hydrogen chloride emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (b)(3)(ii), as in effect on December 1, 2006.

(8)(-) Dioxins/furans emissions shall not exceed the emission limit in 40 CFR ~~((§))~~ 60.33b (c)(1), as in effect on December 1, 2006.

(9)(-) Nitrogen oxide emissions shall not exceed the emission limits in Table 1 of 40 CFR ~~((§))~~ 60.33b(d) (24-hour daily arithmetic average), as in effect on December 1, 2006.

(10)(-) Carbon monoxide emissions shall not exceed the emission levels specified in Table 3 of 40 CFR ~~((§))~~ 60.34b(a), as in effect on December 1, 2006.

~~(E)~~(E) Operating Practices. The operating practices of 40 CFR ~~(§)~~ 60.53b (b) and (c), as in effect on December 1, 2006, are adopted by reference.

~~(F)~~(F) Operator Training and Certification. The operator training and certification requirements of 40 CFR ~~(§)~~ 60.54b, as in effect on December 1, 2006, are adopted by reference with the following change:

(1)~~(-)~~ A State certification program may only be used to meet the certification requirements if it has been demonstrated to EPA's satisfaction that the State program is equivalent to the American Society of Mechanical Engineers certification program.

~~(G)~~(G) Fugitive Ash Emissions. The fugitive ash emission requirements of 40 CFR ~~(§)~~ 60.55b, as in effect on December 1, 2006, are adopted by reference.

~~(H)~~(H) Compliance and Performance Testing. The compliance and performance testing requirements in 40 CFR ~~(§)~~ 60.58b, as in effect on December 1, 2006, are adopted by reference with the following changes:

(1)~~(-)~~ In §60.58b (a)(1)(iii), the references to ~~(§)~~ 60.53b(a) are hereby changed to Table 3 of ~~(§)~~ 60.34b(a).

(2)~~(-)~~ In ~~(§)~~ 60.58b(c), the reference to ~~(§)~~ 60.52b (a)(1) and (a)(2) is hereby changed to ~~(§)~~ 60.33b (a)(1)(i) and (iii).

(3)~~(-)~~ In ~~(§)~~ 60.58b(d), the reference to ~~(§)~~ 60.52b(a) is hereby changed to ~~(§)~~ 60.33b (a)(2), (a)(3), and (a)(4).

(4)~~(-)~~ In ~~(§)~~ 60.58b (d)(1), the reference to ~~(§)~~ 60.52b (a)(3) and (4) is hereby changed to ~~(§)~~ 60.33b (a)(2) and (a)(4).

(5)~~(-)~~ All references to ~~(§)~~ 60.52b (a)(5) in ~~(§)~~ 60.58b are hereby changed to ~~(§)~~ 60.33b (a)(3).

(6)~~(-)~~ In ~~(§)~~ 60.58b(e), the reference to ~~(§)~~ 60.52b (b)(1) is hereby changed to ~~(§)~~ 60.33b (b)(3)(i).

(7)~~(-)~~ In ~~(§)~~ 60.58b(f), the reference to ~~(§)~~ 60.52b (b)(2) is hereby changed to ~~(§)~~ 60.33b (b)(3)(ii).

(8)~~(-)~~ All references to ~~(§)~~ 60.52b(c) in ~~(§)~~ 60.58b are hereby changed to ~~(§)~~ 60.33b (c)(1).

(9)~~(-)~~ In ~~(§)~~ 60.58b (g)(5)(iii), the alternate testing schedule for dioxins/furans, as applicable, shall be available to facilities that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen.

(10)~~(-)~~ In ~~(§)~~ 60.58b(h), the references to ~~(§)~~ 60.52b (d) are hereby changed to Table 1 of ~~(§)~~ 60.33b(d).

(11)~~(-)~~ In ~~(§)~~ 60.58b(i), the reference to ~~(§)~~ 60.53b is hereby changed to Table 3 of ~~(§)~~ 60.34b(a) and ~~(§)~~ 60.53b (b) and (c).

(12)~~(-)~~ In ~~(§)~~ 60.58b(i), the references to ~~(§)~~ 60.53b (a) are hereby changed to Table 3 of ~~(§)~~ 60.34b(a).

~~(I)~~(I) Reporting and Recordkeeping. The reporting and recordkeeping requirements in 40 CFR ~~(§)~~ 60.59b, as in effect on December 1, 2006, are adopted by reference with the following changes:

(1)~~(-)~~ ~~(§)~~ 60.59b (a), (b)(5), and (d)(11) are hereby deleted.

(2)~~(-)~~ In ~~(§)~~ 60.59b(d), the reference to ~~(§)~~ 60.52b is hereby changed to ~~(§)~~ 60.33b.

(3)~~(-)~~ In ~~(§)~~ 60.59b(d), the reference to ~~(§)~~ 60.53b is hereby changed to Table 3 of ~~(§)~~ 60.34b(a) and ~~(§)~~ 60.53b (b) and (c).

~~(J)~~(J) Compliance Schedule. All designated facilities, as determined in Section 6.17(B)~~(-)~~ above, shall comply with the requirements of Section 6.17 as of the effective date of this regulation except for the following:

(1)~~(-)~~ The requirement specified in ~~(§)~~ 60.54b(d) does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers or a state certification plan on or before December 1, 1999.

(2)~~(-)~~ The owner or operator may request that the EPA Administrator waive the requirement specified in ~~(§)~~ 60.54b (d) for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers or a state certification plan on or before December 1, 1999.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 10.02 FEES AND CHARGES REQUIRED

(A) Additional Fee for Failure to Pay. Any fee assessed under Article X shall be paid within forty-five (45) days of assessment. Failure to pay an assessed fee in full within ninety (90) days of assessment will result in the imposition of an additional fee equal to three (3) times the amount of the original fee assessed.

(B) Revenues Collected per RCW 70.94.161. Revenues collected per RCW 70.94.161 shall be deposited in the operating permit program dedicated account and shall be used exclusively for the program.

(C) Method of Calculating Fees in Article X. Invoice totals will be rounded-up to the nearest one (1) dollar, except for public records fees per Section 10.05(A) and Annual AOP Fees per Section 10.06(C).

(D) Periodic Fee Review. The Board shall periodically review all agency fees in the Fee Schedule and determine if the total projected fee revenue to be collected is sufficient to fully recover direct and indirect program costs. If the Board determines that the total projected fee revenue significantly exceeds or is insufficient for the program costs, then the Board shall amend the Fee Schedule to more accurately recover program costs. Any proposed fee revisions shall include opportunity for public review and comment.

AMENDATORY SECTION

SECTION 10.06 ANNUAL REGISTRATION AND ANNUAL AIR OPERATING PERMIT (AOP) FEES (~~FOR AIR CONTAMINANT SOURCES~~)

(A) Annual Fee. Each source required by SRCAA Regulation I, Article IV, Section 4.01 to be registered, each AOP source, and each source required by Article V, Section 5.02 to obtain an approved NOC (~~Notice of Construction (NOC)~~) and Application for Approval is required to pay an annual fee for each calendar year, or portion of each calendar year, during which it operates. The owner, operator, or both, shall be responsible for payment of the fee per the requirements in Article X, Section 10.06. Fees received as part of the

registration program or the operating permit program shall not exceed the actual costs of program administration.

(B) Annual Registration Fee. The annual fee for each source required by Article IV, Section 4.01 to be registered

Registration Fee Categories	Fee	Fee Applicability
Facility Fee ^A	Per the Fee Schedule	Per Source
Emissions Fee ^B	Per the Fee Schedule	Per Ton
Emission Point Fee ^C	Per the Fee Schedule	Per Stack/Point
Synthetic Minor Fee ^D	Per the Fee Schedule	Per Source

- A Each source is subject to the fee listed in the Fee Schedule.
- B The additional fee applies to each ton (rounded to the nearest one-tenth of a ton) of each criteria pollutant, volatile organic compound (VOC), and non-VOC toxic air pollutant emitted.
- C The additional fee applies to each stack and other emission points, including sources of fugitive emissions (e.g., fugitive dust emissions from crushing operations; storage piles; mixing and clean-up associated with surface coating). For gasoline stations, each gasoline tank vent is an emission point.
- D The additional fee applies to each Synthetic Minor.

(2) Calculating Annual Registration Fee without Required Registration Information. When registration information required in Article IV, Section 4.02 is not provided by the form due date, the annual registration fee will be based on the source's maximum potential production rate. (This method will be used:

- (a) When registration information is not received within ninety (90) days of request, or
- (b) Prior to the registration fee invoice date, whichever is later.)

(C) Annual AOP Fee. The annual fee for each AOP source shall be determined as follows:

(1) AOP Annual Fee. For sources that are subject to the AOP program during any portion of the calendar year, the annual fee shall be determined by adding all of the applicable fees described below:

- (a) Annual base fee per the Consolidated Fee Schedule.
- (b) Emission fee per the Consolidated Fee Schedule.
- (c) Agency time fee, as determined per the Consolidated Fee Schedule.
- (d) AOP Program Cost Correction, as determined per the Consolidated Fee Schedule.

(e) A share of the assessment by Ecology per RCW 70.94.162(3), as determined per the Consolidated Fee Schedule.

(2) Acid Deposition Fee. For affected units under Section 404 (Acid Deposition Standards) of the Federal Clean Air Act (42 USC 7401 et seq.), the air operating permit fee shall be determined by adding all of the applicable fees described below:

(a) The AOP Acid Deposition Fee shall be calculated as follows:

1. Hourly Fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request (rounded-up to the nearest half-hour) by the hourly rate as listed in the Fee Schedule, for time expended in carrying out the fee eligible activities specified in Chapter 70.94 RCW; and

and that is not subject to Article X, Section 10.06(C) shall be determined by adding all of the applicable fees below:

2. Ecology Assessment. A share of the assessment by Ecology per RCW 70.94.162(3), as determined per the Fee Schedule.

(b) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total AOP Program Costs}}{\text{Total AOP Program Hours}}$$

(c) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~precedent~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

AMENDATORY SECTION

SECTION 10.07 NOTICE OF CONSTRUCTION (NOC) AND PORTABLE SOURCE PERMIT (PSP) APPLICATION ((AND PERMIT) FEES ((FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT (NOI) TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE))

(A) NOC and ~~((NOI))~~ PSP Fees.

(1) NOC/~~((NOI))~~ PSP Class, Base Fee, Fee for Additional NOC/~~((NOI))~~ PSP Review Hours, SEPA Fee, and Fee Determination. For each project required by SRCAA Regulation I, Article V, to file a NOC or a ~~((NOI))~~ PSP application, the owner or operator must pay the following applicable fees in (b) through (d) below:

(a) NOC/~~((NOI))~~ PSP Class. Each NOC/~~((NOI))~~ PSP application will be assigned a Class, as follows:

1. Class I - ~~((NOI))~~ PSP to install and operate portable ~~((stationary sources and temporary stationary))~~ sources include the following:

Article IV Source/Source Category Description
Asphalt plant
Concrete production operation/ready mix plant
Rock crusher

2. Class II - Simple NOCs include the following:

Article IV Source/Source Category Description
Coffee roaster
Degreaser/solvent cleaner (not subject to 40 CFR Part 63, Subpart T) subject to Article IV
Dry cleaner (non halogenated solvent)
Evaporator subject to Article IV

Article IV Source/Source Category Description
Gasoline dispensing facility with maximum annual gasoline throughput <u>less than or equal to</u> (\leq) 1.5 million gallons
Graphic art system, including lithographic and screen printing operation, subject to Article IV
Material handling operation that exhausts <u>greater than</u> (\geq) 1,000 and <u>less than</u> (\leq) 10,000 acfm to the ambient air
Organic vapor collection system within commercial or industrial facility that is subject to Article IV
Rock, asphalt, or concrete crusher
Spray booth/surface coating operation that exhausts <u>less than or equal to</u> (\leq) 10,000 acfm to the ambient air
Sterilizer subject to Article IV
Wood furniture stripping operation subject to Article IV

3. Class III - Standard NOCs include the following:

Article IV Source/Source Category Description
Soil and groundwater remediation operation subject to Article IV
Bakery subject to Article IV
Bed lining or undercoating operation subject to Article IV
Boiler and other fuel-burning equipment with maximum per unit heat input <u>less than</u> (\leq) 100 MMBtu/hr
Brick and clay products manufacturing operations
Burn out, kiln, and curing oven
Chrome plating operation
Concrete production operation
Dry cleaner (halogenated solvent)
Gasoline dispensing facility with maximum annual gasoline throughput <u>greater than</u> (\geq) 1.5 million gallons
Grain handling; seed, pea and lentil processing facility
Incinerator/crematory
Internal combustion engine used for standby, back-up operations rated <u>greater than or equal to</u> (\geq) 500 bhp
Internal combustion engine, other than engines used for standby or backup operation rated <u>greater than or equal to</u> (\geq) 100 bhp
Material handling operation that exhausts <u>greater than or equal to</u> (\geq) 10,000 acfm to the ambient air
Metal casting facility/foundry
Metal plating or anodizing operation
Metallurgical processing operation
Mill; lumber, plywood, shake, shingle, woodchip, veneer operation, dry kiln, wood products, grain, seed, feed, or flour

Article IV Source/Source Category Description
Plastic and fiberglass operations using <u>greater than</u> (\geq) 55 gallons per year of all VOC and toxic air pollutant containing materials
Spray booth/surface coating operation that exhausts <u>greater than</u> (\geq) 10,000 acfm to the ambient air
Storage tank for organic liquid with capacity <u>greater than</u> (\geq) 20,000 gallons
Stump/woodwaste grinder
Tire recapping operation

4. Class IV - Complex NOCs include the following:

Article IV Source/Source Category Description
Asphalt plant
Boiler and other fuel-burning equipment with maximum per unit heat input <u>greater than or equal to</u> (\geq) 100 MMBtu/hr
Bulk gasoline and aviation gas terminal, plant, or terminal
Cattle feedlot subject to Article IV
Chemical manufacturing operation
Composting operation
Natural gas transmission and distribution facility
Paper manufacturing operation, except Kraft and sulfite paper mills
Petroleum refinery
Pharmaceutical production operation
Refuse systems
Rendering operation
Semiconductor manufacturing operation
Sewerage systems
Wholesale meat/fish/poultry slaughter and packing plant

5. For sources/source categories not listed in Section 10.07(A)(1)(a), each NOC/~~(NOI)~~ PSP application will be assigned to Class I, II, III or IV by the Control Officer on a case-by-case basis.

(b) Base fee. A base fee must be paid to the Agency with the submission of each completed NOC/~~(NOI)~~ PSP application. The base fee applicable for each NOC/~~(NOI)~~ PSP Class is listed in the Consolidated Fee Schedule.

1. For each NOC/~~(NOI)~~ PSP application, the base fee covers staff time spent in reviewing and processing the application up to the listed number of base-fee hours provided in the Fee Schedule for each class of NOC/~~(NOI)~~ PSP.

2. For sources with one or more emission points under one NOC application, ~~(as allowed in Article V, Section 5.02-G,)~~ a separate base fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units will be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

(c) Fee for Additional NOC/~~((NOI))~~ PSP Review Hours. When the staff time hours spent reviewing and processing a NOC/~~((NOI))~~ PSP application exceeds the listed number of base-fee hours provided in the Consolidated Fee Schedule for the applicable class of NOC/~~((NOI))~~ PSP, an additional fee will be charged. The additional fee is calculated by multiplying the total staff time spent in reviewing and processing the NOC/~~((NOI))~~ PSP application that exceeds the listed number of review hours (rounded up to the nearest half-hour) by the hourly rate as listed in the Consolidated Fee Schedule.

(d) SEPA Review Fee. Where submittal of an Environmental Checklist, ~~((is required))~~ per the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required in association with a NOC or a ~~((NOI))~~ PSP, and SRCAA is the lead agency, the applicant must pay a SEPA review fee as listed in the Consolidated Fee Schedule. The SEPA review fee must be paid with the submission of the Environmental Checklist to the Agency.

(e) Fee Determinations.

1. The base fee is calculated by multiplying the number of base-fee hours for the NOC/~~((NOI))~~ PSP class by the hourly rate listed in the Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Costs}}{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Hours}}$$

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(2) Fees for Replacement or Substantial Alteration of Control Technology and for Changes to an Order of Approval or Permission to Operate.

(a) The following NOC applications or requested changes to an Order of Approval or Permission to Operate must pay a fee as listed in the Fee Schedule. The fee will be assessed each time a request is submitted and will be invoiced to the owner or operator with the final determination.

1. NOC applications for replacement or substantial alteration of control technology under WAC 173-400-114.

2. An owner or operator requesting a modification, revision, and/or change in conditions of an approved Order of Approval or Permission to Operate, under Article V, Section 5.10~~(C)~~~~((C))~~.

(b) The fee is calculated by adding all the applicable fees described below:

1. Minimum Fee. The minimum fee, as listed in the Consolidated Fee Schedule, will be assessed for all NOCs reviewed under WAC 173-400-114 and revision request reviews. The minimum fee includes the first three (3) hours of staff time spent in reviewing and processing the request; and

2. Hourly Fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request beyond the first three (3) hours covered in 10.07 (A) (2)(b)1. Consolidated Fee Schedule.

(c) Fee Determinations.

1. Flat Fee. The revision flat fee is calculated by multiplying three (3) hours by the hourly rate listed in the Consolidated Fee Schedule.

2. Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Costs}}{\text{Total NOC and } \del{((NOI))} \text{ PSP Program Hours}}$$

3. Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(B) Payment of Fees.

(1) Upon Submission of Application. The base fee and SEPA fee (if applicable) must be paid at the time the ~~((NOI))~~ NOC/PSP application is submitted to the Agency. Review of the ~~((NOI))~~ NOC/PSP application will not commence until the base fee and SEPA fee (if applicable) is received.

(2) After Application.

(a) Complete Applications. The Agency will invoice the owner, operator, or both, for Fees for Additional NOC/~~((NOI))~~ PSP Review Hours, if applicable. The fees must be paid whether the application is approved or denied.

(b) Incomplete Applications.

1. If an owner, operator, or both, notifies the Agency in writing that an application will not be completed or cancels the application; or the application remains incomplete for more than three (3) months; the Agency will invoice the owner, operator, or both, for payment of applicable fees.

2. Applications not accompanied by the base fee and SEPA fee (if applicable) will be considered incomplete. If information requested by the Agency is not provided, the application will be considered incomplete and review of the application will be suspended. Review of the application will commence, or recommence, when all required fees and information requested by the Agency is received. An application will be cancelled if it remains incomplete for more than eighteen (18) months from initial receipt. For review of the cancelled application to resume, the applicant must pay all outstanding invoice fees (if applicable), and resubmit the base fee and SEPA fee (if applicable).

(C) Compliance Investigation Fee. When a compliance investigation is conducted per Article V, Section 5.12, the compliance investigation fee shall be assessed per the Consolidated Fee Schedule. The fee shall be assessed for each emissions unit, or group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of calculations can be used to characterize emissions from each of the emissions units.

AMENDATORY SECTION

SECTION 10.08 MISCELLANEOUS FEES

(A) Miscellaneous Fees.

(1) Emission Reduction Credit Fee.

(a) Review of emission reduction credits per WAC 173-400-131 shall require the applicant to pay an emission reduction credit fee per the Consolidated Fee Schedule.

(b) The fee is calculated by multiplying the total staff time spent reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, per the Consolidated Fee Schedule.

(c) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(d) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(2) Variance Request Fee.

(a) Processing a variance request per RCW 70.94.181 or SRCAA Regulation I, Article III, shall require the applicant to pay a variance request fee per the Consolidated Fee Schedule. The fee will be assessed each time a request is submitted and will be invoiced to the applicant with the final determination.

(b) The variance request fee is calculated by adding all of the applicable fees described below:

1. Filing fee per the Consolidated Fee Schedule.
2. Agency legal fees related to the variance request.
3. ~~((Agency legal))~~ Public notice fees.
4. Hourly fee. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Consolidated Fee Schedule.

(c) Fee Determination.

1. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total Program Costs}}{\text{Total Program Hours}}$$

2. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(3) Alternate Opacity Fee.

(a) Review of an alternate opacity limit per RCW 70.94.331 (2)(c) shall require the applicant to pay an alternate opacity fee per the Consolidated Fee Schedule.

(b) The fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Consolidated Fee Schedule.

(c) Hourly Rate. The hourly rate is determined by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(d) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(4) Other Services Fee.

(a) Applicants of other services including:

1. Requests under the following sections of Regulation I, Article VI, Sections 6.13 (E)(3)(i); 6.13 (F)(4); 6.13 (F)(6); 6.13 (F)(9); 6.13 (F)(10); and 6.13 (F)(11). ~~((6.13.E.3.j; 6.13.F.4.; 6.13.F.6.; 6.13.F.9.; 6.13.F.10.; and 6.13.F.11.))~~
2. Registration exemption requests.
3. Other.

(b) Applicants shall pay a fee per the Consolidated Fee Schedule.

(c) The fee is calculated by multiplying the total staff time spent in reviewing and processing the request, rounded-up to the nearest half-hour, by the hourly rate, as listed in the Fee Schedule.

(d) Hourly Rate. The hourly rate is calculated by:

$$\text{Hourly Rate} = \frac{\text{Total NOC and ((N\O\I)) PSP Program Costs}}{\text{Total NOC and ((N\O\I)) PSP Program Hours}}$$

(e) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) ~~((recent))~~ preceding fiscal years, rounded-up to the nearest one (1) dollar.

(B) Payment of Fees. The Agency will invoice the owner, operator, or both, for all applicable fees. The fees shall be paid without regard to whether the request(s) associated with Article X, Section 10.08 (A)(1), (2), (3) and (4) are approved or denied; except Section 10.08 (A)(2) as provided in Article III, Section 3.02.B.

AMENDATORY SECTION

~~SECTION 10.11 ((RESERVED))~~ **OXYGENATED GASOLINE**
~~(Repealed 9/1/05, Res. 05-19)~~

AMENDATORY SECTION

SECTION 10.13 OUTDOOR BURNING WAITING PERIOD AND FEES

(A) Permit Application. An outdoor burning permit application must be completed and submitted to the Agency per SRCAA Regulation I, Article VI, Section 6.01. Incomplete applications and applications received without the applicable fee will be returned to the applicant.

(B) Advance Application Period. A complete and accurate application must be received by the Agency in advance of the first proposed burn date by the number of working days specified in the table below.

Type of Outdoor Burning	Working Days*
Social Event Fires [<u>Section 6.01 (D)(9)</u>] ((Seet. 6.01.D.9.))	10
Storm or Flood Debris Burning [<u>Section 6.01 (D)(10)</u>] ((Seet. 6.01.D.10.))	10
Types of Other Outdoor Burning Not Listed in Sections <u>6.01 (D)(1 through 12)</u> [<u>Section 6.01 (D)(13)</u>] ((6.01.D.1.-12. (Seet. 6.01.D.13.))	10

*Unless otherwise approved by the Agency.

(C) Permit Application Fees.

(1) Review Fee. A nonrefundable review fee per the Consolidated Fee Schedule shall accompany all outdoor burning permit applications. The fee shall be paid whether or not burning is conducted.

(2) Hourly Fee for Other Outdoor Burning Permits [Section 6.01 (D)(13)]
~~((Section 6.01.D.13.))~~. The hourly fee is calculated by multiplying the total staff time spent in reviewing and processing the outdoor burning application beyond the first one (1) hour covered in Section 10.13 (C)(1) (rounded-up to the nearest half-hour) and multiplied by the hourly rate, as listed in the Consolidated Fee Schedule. A billing invoice for the hourly fee will be sent to the applicant.

The entire fee assessed on the invoice is nonrefundable, and shall be paid whether or not burning is conducted.

(3) Fee Determination.

(a) Hourly Rate. The hourly rate is determined by:

$$\text{Hourly Rate} = \frac{\text{Total Outdoor Burning Program Costs}}{\text{Total Outdoor Burning Program Hours}}$$

(b) Hourly Rate Revision. Revisions to the hourly rate are based on a three (3) year average of the three (3) most representative fiscal years out of the four (4) (~~recent~~) preceding fiscal years, rounded-up to the nearest one (1) dollar.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 20-18-013
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed August 21, 2020, 2:59 p.m., effective September 21, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-310-1300 Community jobs, to strike inoperative rule language related to unemployment compensation, as eligibility for unemployment compensation is determined by the employment security department.

Citation of Rules Affected by this Order: Amending WAC 388-310-1300.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320.

Adopted under notice filed as WSR 20-13-009 on June 5, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 20, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-24-057, filed 11/24/15, effective 1/1/16)

WAC 388-310-1300 Community jobs. (1) What is the community jobs program?

Community jobs is a paid work experience that assists you to gain work skills and experience. You are placed in a community job (up to twenty hours per week) where your wages are paid by the community jobs program. If you participate in the program, you are eligible for support services that assist you in moving into a job where your employer pays all your wages.

(2) What is career jump?

Career jump offers job-ready community jobs participants an opportunity to gain paid work experience that leads to a permanent job. This program is a subset of community jobs and will be referred to as such. Career jump places you in a part time (up to twenty hours per week), community job where your earnings are paid by the community jobs program, for up to five months, at which time you will transition to the employer's payroll. You will be provided with support services to assist you in retaining your job through the ninth month of the program. At or before the fifth month, the employment opportunity will be above minimum wage, thirty-two or more hours per week and include wage progression and benefits comparable to other employees.

(3) Who administers the community jobs program?

The department of commerce (commerce) administers the community jobs program. Commerce contracts with local agencies throughout the state, known as community jobs contractors who develop and manage the community jobs positions, pay the wages, provide support services and act as the "employer of record" while you are enrolled in a community job.

(4) What types of work sites are used to provide community jobs?

The following work sites may be used to provide community jobs:

(a) Federal, state or local governmental agencies and tribal governments;

(b) Private and tribal nonprofit businesses, organizations and educational institutions;

(c) Private for profit businesses for career jump placements.

(5) What are the requirements for the work sites?

Work sites for community jobs and career jump:

(a) Must assist in strengthening work ethics, improve workplace skills and help you gain skills to move into a job where the employer pays all your wages. If they do not meet this requirement, they will not be considered for additional community jobs/career jump placements.

(b) We will follow the employment rules described in WAC 388-310-1500. In any situation where training is inconsistent with the terms of a collective bargaining agreement, your community jobs contractor will obtain written approval from the labor organization concerned. Career jump employers will remain neutral with regard to neutralization in the worksite.

(c) You will not be required to do work related to religious, electoral or partisan political activities.

(6) What are the benefits of community jobs?

You benefit from community jobs by:

- (a) Learning work skills;
- (b) Getting work experience;
- (c) Working twenty hours per week, while being paid federal, state, or local minimum wage, whichever is higher; and
- (d) Earning paid personal leave as determined by commerce.

(7) How do I get into community jobs?

You will be placed into community jobs after you and your DSHS case manager decide:

- (a) You would benefit from community jobs after you have participated in job search without finding a job; and/or
- (b) You need a supportive work environment to help you become more employable.

(8) What happens after I am placed in the community jobs program?

When you are placed in the community jobs program by DSHS:

(a) You will be assigned to a community job by the community jobs contractor for no more than nine months. You will work twenty hours a week and participate in any other unpaid activities as required in your individual responsibility plan for:

- (i) Three additional hours per week when you are a single parent or caretaker relative with a child under six.
- (ii) Twelve to twenty additional hours per week when you do not meet the criteria in (8)(a)(i).

(b) Your placement in community jobs will be reviewed by your DSHS case manager every three months during your nine-month placement for the following:

- (i) To ensure you are TANF/SFA eligible; and
- (ii) To verify any earned or unearned income received by you or another member of your assistance unit (that is, you and other people in your household who are included on your cash grant).

(c) Your community jobs contractor will review your case each month to ensure you are following your IRP and IDP, participating full time, and becoming more employable because of your community job;

(d) If you request a different community jobs placement, we do not consider your request a refusal to participate without good cause under WAC 388-310-1600. You may be asked to explain why you want a different placement;

(e) Grievance policies are in place for your protection. You will be required to sign an acknowledgment that you received a copy of this policy at the time of placement with the employer.

(9) How does community jobs affect my TANF benefits?

The amount of your TANF/SFA monthly grant will be determined by following the rules in WAC 388-450-0050 and 388-450-0215 (1), (3), (4), (5) and (6). WAC 388-450-0215(2), does not apply to your community jobs wages.

(10) What can I expect from my career jump placement?

(a) You cannot represent more than ten percent of the total labor force for an employer that has ten or more employees.

(b) No more than one community jobs participant shall be allowed per private for profit worksite supervisor.

(c) You will participate in developing a career progression plan that will include health care benefits comparable to other employees.

~~(d) ((You may be eligible for unemployment benefits if you have participated in community jobs' career jump and have worked at least six hundred eighty hours in a base year. You will gain unemployment insurance credits for all hours worked under your career jump placement.~~

(e)) Your employer and your community jobs contractor will be required to follow commerce's contractual agreements for career jump.

WSR 20-18-024

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 26, 2020, 10:15 a.m., effective September 26, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Rule changes are necessary to update the WAC to incorporate changes required by ESSB 5480 to establish an inactive status, establish rules for inactive status, and establish rules for reactivation process for real estate appraisers. ESSB 5480 is effective September 1, 2020, and was passed by the 2019 legislature which requires the ability for an appraiser license to go inactive and the department of licensing to establish rules to clarify inactive status and reactivation processes.

All rule changes are approved and recommended to the director by the real estate appraiser commission.

Citation of Rules Affected by this Order: New WAC 308-125-250; and amending WAC 308-125-010, 308-125-080, 308-125-090, and 308-125-120.

Statutory Authority for Adoption: RCW 18.140.030 (1) and (15).

Adopted under notice filed as WSR 20-15-038 on July 8, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 26, 2020.

Ellis Starrett
Rules and Policy Manager

AMENDATORY SECTION (Amending WSR 08-17-016, filed 8/8/08, effective 9/8/08)

WAC 308-125-010 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has in the Certified Real Estate Appraiser Act, (chapter 18.140 RCW) and the Uniform Standards of Professional Appraisal Practice (USPAP).

(2) "Appraisal foundation" means a private association of appraiser professional organizations. The appraisal foundation develops appraisal standards which the regulatory agencies must use as minimum standards for federally related transactions and it develops qualification criteria for appraisers.

(3) "Appraisal subcommittee" means a committee created by Title XI. It monitors all activities related to the implementation of Title XI.

(4) "Appraisal standards board" means a board established by the appraisal foundation for the purpose of developing, publishing, interpreting and amending the *Uniform Standards of Professional Appraisal Practice*.

(5) "The *Uniform Standards of Professional Appraisal Practice* (USPAP)" means the current edition of the publication in force of the appraisal standards board (ASB) of the appraisal foundation. USPAP is the applicable standard for all appraisal practice in the state of Washington regulated under the provisions of chapter 18.140 RCW.

(6) "Appraiser qualifications board" means a board of the appraisal foundation for the purpose of developing, publishing, interpreting and amending the real property appraiser qualification criteria.

(7) "Real property appraiser qualification criteria" means the minimum criteria establishing the minimum education, experience and examination requirements for real property appraisers to obtain a state certification as established by the appraiser qualifications board (AQB) of the appraisal foundation under the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, and any additional qualifying criteria established by the director in accordance with chapter 18.140 RCW.

(8) "Classroom hour" means fifty minutes out of each sixty minute hour.

(9) "Full-time" means the equivalent twelve-month period in which an applicant works at least one thousand hours in real estate appraisal.

(10) "Required core curriculum" means a set of appraiser subject matter areas (known as "modules") that require a specified number of educational hours at each credential level as established by the appraiser qualifications board.

(11) "Module" means an appraisal subject matter area (and required hours of coverage) as identified in the required core curriculum.

(12) "Residential properties" means one to four single family residential units and lots where the highest and best use is for one to four family purposes.

(13) "Significant professional appraisal assistance" shall include but not be limited to the work contributed or performed toward the completion of an appraisal report by either a trainee, state-licensed, or state-certified appraiser, while under the direct supervision of a certified residential appraiser or certified general appraiser as required by the

department as qualifying appraisal experience for licensing. Significant professional appraisal assistance shall consist of identifying and analyzing the scope of work, collection of data, analyzing data to derive an opinion of value, or writing the appraisal report in accordance with the *Uniform Standards of Professional Appraisal Practice*.

(14) "Inactive status" means the status of an appraiser license or certification that is not expired and is eligible for reinstatement or renewal. An appraiser license in inactive status is not eligible to provide real estate appraisal services.

AMENDATORY SECTION (Amending WSR 97-02-004, filed 12/20/96, effective 1/20/97)

WAC 308-125-080 Application for certification. (1) Upon receipt of notice of passage of the examination, applicants must submit a complete original certification application with the certification fee to the department of licensing, business and professions division, at its official address. The department will verify qualifications under chapter 18.140 RCW and the rules promulgated thereunder.

(2) Each original and renewal and reinstated certificate issued under RCW 18.140.130 shall expire on the applicant's second birthday following issuance of the certificate.

AMENDATORY SECTION (Amending WSR 13-17-002, filed 8/7/13, effective 9/7/13)

WAC 308-125-090 Continuing education required. (1) As a prerequisite to renewal of an active or inactive certification, licensure, or registration, the holder of a certificate, license, or registration shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of an active or inactive certification, licensure, or registration shall be the completion by the applicant of twenty-eight hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the term of certification, licensure, or registration immediately preceding renewal. An applicant shall not receive credit in consecutive renewals for courses that have the same or very similar content and are deemed comparable by the department. The holder of a certificate, license, or registration will present evidence of successful completion of the seven-hour National USPAP update course or its equivalent.

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of two hours in length and be directly related to real estate appraising. However, a maximum of one-half of the continuing education hours required for renewal can be in two-hour seminars or courses.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours.

(5) Up to one-half of the requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials. A licensee or certificate holder may receive continuing

education credit for teaching an approved real estate appraisal course. Once a licensee or certificate holder has received credit for teaching an approved real estate appraiser course, the credential holder shall not receive credit for teaching that course or any substantially similar course on any subsequent occasion, with the exception of the Uniform Standards of Professional Appraisal Practice, USPAP, 7-hour update.

(6) Courses or seminars taken to satisfy the continuing education requirement for real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations, dispute resolution.
- (c) Business courses related to practice of real estate appraisal and consulting.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice, USPAP.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development, partial interests.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law, easements and legal interests.
- (l) Real estate litigation, damages and condemnation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Appraisal and consulting report writing.
- (q) Green buildings.
- (r) Seller concessions.
- (s) Developing opinions of real property value in appraisals that also include personal property and/or business value.
- (t) Such other presentations approved by the director.

(7) The director may approve continuing education credit for attendance at one real estate appraiser commission meeting of no more than seven hours.

(8) The director may defer completion of continuing education for the holder of a certificate, license, or registration returning from military service active duty and place the registration, license, or certificate in an active status for a period of ninety days pending completion of education. If the holder of a certificate, license, or registration fails to comply with the continuing education requirement within said ninety days, the registration, license, or certificate will revert to an expired status.

(9) A licensee or certificate holder may receive continuing education credit for teaching an approved real estate appraisal course. One hour of education credit for each hour of teaching an approved real estate appraisal course shall be given. Once a licensee or certificate holder has received credit for teaching an approved real estate appraisal course, the credential holder shall not receive credit for teaching that course or any substantially similar course on any subsequent occasion.

AMENDATORY SECTION (Amending WSR 11-19-103, filed 9/21/11, effective 10/22/11)

WAC 308-125-120 Fees and charges. The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1) Application for examination	\$370.00
(2) Examination	120.00**
(3) Reexamination	120.00**
(4) Original certification	250.00*
(5) ((Certification)) <u>Active license renewal</u>	530.00*
(6) <u>Inactive license renewal</u>	<u>110.00</u>
<u>(7) Reinstatement</u>	<u>530.00</u>
(8) Late renewal ((penalty))	38.00
((7)) Duplicate certificate	30.00
((8)) Certification history record	30.00
<u>(9)</u>	
((9)) Application for reciprocity	370.00
<u>(10)</u>	
((10)) Original certification via reciprocity	250.00*
<u>(11)</u>	
((11)) Temporary practice	150.00
<u>(12)</u>	
((12)) Trainee registration	200.00
<u>(13)</u>	
((13)) Trainee registration renewal	200.00
<u>(14)</u>	
(15) <u>DOL license print</u>	<u>5.00</u>

* Fees for these categories marked with an asterisk include a national registry fee in an amount determined by the appraisal subcommittee to be submitted by the state. Title XI, SEC. 1109 requires each state to submit a roster listing of state licensed and certified appraisers to the Appraiser Subcommittee.

** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.

NEW SECTION

WAC 308-125-250 Inactive licenses. (1) Any license issued under this chapter and not otherwise revoked is deemed "inactive" at any time it is delivered to the director. Until reinstated under this chapter, the holder of an inactive license is prohibited from conducting real estate appraisal services.

(2) An inactive license may be renewed on the same terms and conditions as an active license, except that a person with an inactive license shall pay a reduced renewal fee. Failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon submission of a reinstatement application to include proof of successful completion within one hundred eighty

days of application of a fifteen hour course in the uniform standards of professional appraisal practice.

(4) If an appraiser license is inactive for more than eight years, the license shall be canceled in the same manner as an active license.

WSR 20-18-036
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed August 27, 2020, 1:01 p.m., effective September 27, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to align the department of natural resources' (DNR) rules (WAC 332-24-600) with RCW regarding refunds of forest fire protection assessment (RCW 76.04.610) and landowner contingency agreement assessments (RCW 76.04.630). The former RCW mandates that DNR provide refunds of forest fire protection assessments; the latter RCW does not require DNR to provide refunds for landowner contingency assessments. WAC 332-24-600 title implies that DNR may provide refunds for both. Further, updates the name of the responsible division from fire control to wildfire.

Citation of Rules Affected by this Order: Amending WAC 332-24-600.

Statutory Authority for Adoption: RCW 34-05-220.

Adopted under notice filed as WSR 20-05-059 on February 14, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 27, 2020.

George Geissler
Washington State Forester

AMENDATORY SECTION (Amending WSR 91-20-060, filed 9/24/91, effective 10/16/91)

WAC 332-24-600 Forest fire protection ((~~and special forest fire suppression account minimum~~)) assessment refund procedure. This section implements the provisions of RCW 76.04.610 ((~~and 76.04.630~~)), which provides that an owner of forest land owning two or more parcels, each con-

taining less than fifty acres in a county, may obtain a refund of the assessments paid on all such parcels over one.

(1) The forest landowner must:

(a) Obtain a forest fire protection assessment refund form from any department or county treasurer office;

(b) Complete refund form per instructions on form;

(c) Pay taxes and assessments to county treasurer and obtain treasurer's signature on refund form to verify assessments have been paid in full;

(d) Mail refund form before December 31 of the year the assessments are due to: Department of Natural Resources, ((~~Fire Control~~)) Wildfire Division, Olympia, WA 98504.

(2) The department's ((~~fire control~~)) wildfire division will complete the refund due the landowner and process for payment through the department's ((~~financial services' division~~)) office of finance. The ((~~financial services' division~~)) office of finance will prepare the refund check and send the check and a copy of the refund form to the landowner.

WSR 20-18-099
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 2, 2020, 10:30 a.m., effective October 3, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 314-55-035 What persons or entities have to qualify for a marijuana license?, the Washington state liquor and cannabis board (board) has adopted amendments to existing sections of rule regarding qualifications for a marijuana license, and to implement the directives of ESHB 1794 (chapter 380, Laws of 2019) regarding agreements by licensed marijuana businesses, intellectual property, now codified in RCW 69.50.395. The rule section has been retitled "Qualifying for a marijuana license."

Citation of Rules Affected by this Order: Amending WAC 314-55-035.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345, 69.50.395.

Other Authority: ESHB 1794 (chapter 380, Laws of 2019).

Adopted under notice filed as WSR 20-14-032 on June 24, 2020.

A final cost-benefit analysis is available by contacting Katherine Hoffman, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-664-1622, fax 360-664-9689, email rules@lcb.wa.gov, website www.lcb.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: September 2, 2020.

Jane Rushford
Chair

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-035 (~~What persons or entities have to qualify for a marijuana license?~~) Qualifying for a marijuana license. A marijuana license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) True parties of interest ((-)). True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

((True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> • All general partners and their spouses. • All limited partners and spouses.
Limited liability company	<ul style="list-style-type: none"> • All members and their spouses. • All managers and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders and their spouses.
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).

((True party of interest	Persons to be qualified
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise. Financial institutions are not considered true parties of interest.	<p>Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's pre-bonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) ~~Financiers~~ — The WSLCB will conduct a financial investigation as well as a criminal background of financiers.

(4) ~~Persons who exercise control of business~~ — The WSLCB will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

(5) After licensure, a true party of interest, including financiers, must continue to disclose the source of funds for all moneys invested in the licensed business. The WSLCB

must approve these funds prior to investing them into the business.))

<u>Entity</u>	<u>True party(ies) of interest</u>
<u>Sole proprietorship</u>	<u>Sole proprietor</u>
<u>General partnership</u>	<u>All partners</u>
<u>Limited partnership, limited liability partnership, or limited liability limited partnership</u>	<u>All general partners</u> <u>All limited partners</u>
<u>Limited liability company (LLC)</u>	<u>All LLC members</u> <u>All LLC managers</u>
<u>Privately held corporation</u>	<u>All corporate officers and directors (or persons with equivalent title)</u> <u>All stockholders</u>
<u>Multilevel ownership structures</u>	<u>All persons and entities that make up the ownership structure</u>
<u>Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business</u>	<u>Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year</u> <u>Any entity(ies) or person(s) who exercise(s) control over the licensed business</u>
<u>Nonprofit corporations</u>	<u>All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws</u>

(2) A married couple may not be a true party of interest in more than five retail marijuana licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a marijuana retailer license and a marijuana producer license or a marijuana retailer license and a marijuana processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed ten percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

(5) Notification.

(a) Except as provided in this subsection (4)(a)(i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed marijuana business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

(6) Disclosure agreements and intellectual property.

(a) Licensed marijuana businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

(7) Financiers.

(a) Consistent with WAC 314-55-010(11), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.

(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.